

**2012**  
**CUMULATIVE SUPPLEMENT**  
**TO**  
**MISSISSIPPI CODE**  
**1972 ANNOTATED**

**Issued September, 2012**

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI  
ENACTED THROUGH THE 2012 REGULAR SESSION**

**PUBLISHED BY AUTHORITY OF  
THE LEGISLATURE**

**SUPPLEMENTING**

**Volume 10**

**(As Revised 2007)**

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ISBN 978-0-327-09628-3 (Code set)  
ISBN 978-1-422-43901-2 (Volume 10)



Matthew Bender & Company, Inc.

701 E. Water Street, Charlottesville, VA 22902-5389

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## **User's Guide**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.





## **PUBLISHER'S FOREWORD**

### **Statutes**

The 2012 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2012 Regular Session.

### **Annotations**

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

- Southern Reporter, 3rd Series
- United States Supreme Court Reports
- Supreme Court Reporter
- United States Supreme Court Reports, Lawyers' Edition, 2nd Series
- Federal Reporter, 3rd Series
- Federal Supplement, 2nd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal Series
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

### **Amendment Notes**

Amendment notes detail how the new legislation affects existing sections.

### **Editor's Notes**

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

## **PUBLISHER'S FOREWORD**

### **Joint Legislative Committee Notes**

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

### **Tables**

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2012 Regular Session.

### **Index**

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

### **Acknowledgements**

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2012

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# **SCHEDULE OF NEW SECTIONS**

Added in this Supplement

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## **TITLE 35. WAR VETERANS AND PENSIONS**

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#### **MISSISSIPPI VETERANS MEMORIAL CEMETERY**

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### **CHAPTER 3. State Department of Education**

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37-3-101. In-service training on suicide prevention education for all licensed teachers and principals.  
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### **CHAPTER 7. School Districts; Boards of Trustees of School Districts**

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37-7-104.1. Administrative consolidation of all school districts in Bolivar County, Mississippi, into three school districts; procedure [Effective from and after the date Laws of 2012, ch. 551, is effectuated under Section 5 of the Voting Rights Act, as amended and extended].

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### **ARTICLE 19. COMMISSION ON SCHOOL DISTRICT EFFICIENCY**

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37-11-67. Bullying or harassing behavior in public schools prohibited.  
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- 37-13-19. Local school districts may allow course credit for completion of National Guard basic training to certain students.

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# MISSISSIPPI CODE 1972

ANNOTATED

## VOLUME TEN

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### TITLE 35

#### WAR VETERANS AND PENSIONS

|            |                                    |        |
|------------|------------------------------------|--------|
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#### CHAPTER 1

##### State Veterans Affairs Board

|                                              |         |
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#### IN GENERAL

#### § 35-1-1. Creation of State Veterans Affairs Board; composition; qualifications, appointment and terms of office of members; officers; meetings.

**Cross References** — Authority for establishment of Mississippi Persian Gulf War Memorial, see § 35-1-43.

#### § 35-1-7. General duties and powers of board.

**Editor's Note** — Laws of 2011, ch. 506, § 8, provides:

"SECTION 8. The Veterans Affairs Board, in accordance with applicable rules and regulations of the State Fiscal Officer, is authorized to escalate the total number of full time and part time time-limited positions to not more than two hundred two (202) positions above the total number of time-limited positions that are authorized in House Bill No. 3047, 2011 Regular Session."

#### MISSISSIPPI STATE VETERANS HOME

|          |                                                                                                                                                                                                                                        |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEC.     |                                                                                                                                                                                                                                        |
| 35-1-27. | Standards for admissions and dismissals; rules and regulations; funds paid by state veterans homes residents for their monthly expenses at veterans homes to be considered special funds held in fiduciary capacity for their benefit. |

35-1-33. Repealed

**§ 35-1-27. Standards for admissions and dismissals; rules and regulations; funds paid by state veterans homes residents for their monthly expenses at veterans homes to be considered special funds held in fiduciary capacity for their benefit.**

The Mississippi Veterans Affairs Board shall determine and set conditions and standards for admission and dismissal of all persons to and from the Mississippi State Veterans Home and such additional homes as may be constructed. In addition, the board shall promulgate such rules and regulations as it deems necessary for the government of the Mississippi State Veterans Home and such additional homes as may be constructed. Such rules and regulations shall include the establishment of rates for patient care within the patient's ability to pay. All funds paid to the board by the veteran residents of state veterans homes to fund their monthly expenses at the state veterans homes shall be considered to be special funds held in a fiduciary capacity for the benefit of the residents of the state veterans homes.

**SOURCES:** Laws, 1980, ch. 466, § 5; Laws, 1993, ch. 426, § 6; Laws, 2008, ch. 361, § 2; Laws, 2011, ch. 506, § 7, eff from and after passage (approved Apr. 26, 2011.)

**Editor's Note** — Section 35-1-33, referred to at the end of the paragraph, was repealed by Laws, 2008, ch. 361, § 1, effective from and after passage (approved Mar. 31, 2008).

**Amendment Notes** — The 2008 amendment added "except this section shall not apply to the veteran resident contribution as provided by Section 35-1-33" to the end of the section.

The 2011 amendment deleted "except this section shall not apply to the veteran resident contribution as provided by Section 35-1-33" at the end of the third sentence and added the last sentence.

**§ 35-1-33. Repealed.**

Repealed by Laws of 2010, ch. 306, § 1, effective from and after passage, (approved February 24, 2010.)

§ 35-1-33. [Laws, 2008, ch. 361, § 1, eff from and after passage (approved Mar. 31, 2008.)]

**Editor's Note** — Former § 35-1-33 established the amount of contribution required to be paid by veteran residents of state veterans homes.

**MISSISSIPPI VETERANS MEMORIAL CEMETERY**

SEC.

35-1-41. Establishment, operation and maintenance of the Mississippi Veterans Memorial Cemetery; authorization to establish additional veterans



cemeteries; eligibility for burial; administration; applications for burial; receipt of federal aid; Mississippi Veterans Cemetery Fund.

35-1-43.

Establishment, operation and maintenance of Mississippi Persian Gulf War Memorial; purpose of memorial; Mississippi Persian Gulf War Memorial Fund.

**§ 35-1-41. Establishment, operation and maintenance of the Mississippi Veterans Memorial Cemetery; authorization to establish additional veterans cemeteries; eligibility for burial; administration; applications for burial; receipt of federal aid; Mississippi Veterans Cemetery Fund.**

(1)(a) The State Veterans Affairs Board is authorized to establish, operate and maintain a Mississippi veterans cemetery in this state, which shall be known as the “Mississippi Veterans Memorial Cemetery.”

(b) The State Veterans Affairs Board is authorized to establish, operate and maintain additional veterans cemeteries in this state.

(2) The State Veterans Affairs Board has the primary responsibility for verifying eligibility for interment in the veterans cemeteries. Eligibility criteria for interment in the cemeteries is the same as required for interment in a national cemetery as provided by federal law and rules and regulations applicable thereto.

(3) The cemeteries shall be under the control and administration of the State Veterans Affairs Board.

(4) Applications for interment in the cemeteries shall be processed in accordance with rules and regulations promulgated by the State Veterans Affairs Board.

(5) The State Veterans Affairs Board is designated as the agency of this state to receive federal aid under Title 38 USCS, as amended, and is authorized to receive funds from the United States Department of Veterans Affairs or any other agency of the United States authorized to grant or expend funds to assist a state in establishing, operating and maintaining veterans cemeteries. The board is authorized to receive gifts, contributions, bequests and individual reimbursements from any source, the receipt of which shall not exclude any other source of revenue. All funds received by the board pursuant to this subsection shall be deposited into a special fund, hereby created and known as the “Mississippi Veterans Cemetery Fund,” and shall be expended to establish, operate and maintain veterans cemeteries in this state. The State Veterans Affairs Board is authorized to employ such personnel as it may deem necessary to carry out its duties and responsibilities under this section.

**SOURCES:** Laws, 2004, ch. 545, § 10; Laws, 2008, ch. 335, § 1; Laws, 2012, ch. 401, § 1, eff from and after July 1, 2012.

**Editor’s Note** — Laws of 2010, ch. 356, § 1 provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, may transfer to the State Veterans Affairs Board certain state-owned real property located at the Missis-

Mississippi State University Coastal Plains Experiment Station in Newton County, Mississippi, such property being more specifically described as follows:

"Commence at an iron pin marking the Southwest corner of the SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 6 North, Range 12 East, Newton County, Mississippi;

"Thence run North for a distance of 95.95 feet to a  $\frac{1}{2}$ " round iron pin;

"Thence run East for a distance of 184.22 feet to a  $\frac{1}{2}$ " round iron pin; Said point being the Point of Beginning of the herein described parcel of land;

"Thence run South 85 degrees 23 minutes 59 seconds East for a distance of 302.28 feet to a  $\frac{1}{2}$ " round iron pin;

"Thence run South 56 degrees 40 minutes 42 seconds East for a distance of 385.15 feet to a  $\frac{1}{2}$ " round iron pin;

"Thence run South 37 degrees 53 minutes 48 seconds West for a distance of 200.11 feet to a  $\frac{1}{2}$ " round iron pin;

"Thence run South 13 degrees 50 minutes 47 seconds West for a distance of 790.43 feet to a  $\frac{1}{2}$ " round iron pin on the north right-of-way line of Mississippi Highway No. 80;

"Thence run North 76 degrees 00 minutes 58 seconds West along said north right-of-way line of Highway 80 a distance of 472.38 feet to a  $\frac{1}{2}$ " round iron pin;

"Thence run North 16 degrees 31 minutes 02 seconds East for a distance of 499.06 feet to a  $\frac{1}{2}$ " round iron pin;

"Thence run North 00 degrees 32 minutes 52 seconds East for a distance of 568.60 feet to back to the Point of Beginning; Said parcel of land is part of the SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 6 North, Range 12 East and part of the NW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 28, Township 6 North, Range 12 East, Newton County, Mississippi, and contains 12.172 acres more or less.

"(2) The real property described in subsection (1) shall be used by the State Veterans Affairs Board as an addition to the Mississippi Veterans Memorial Cemetery, on the grounds of which the board may construct and maintain a Mississippi Persian Gulf War Memorial."

**Amendment Notes** — The 2008 amendment deleted the former last sentence of (2), which read: "However, to be eligible for interment a veteran must have been a legal resident of the State of Mississippi for two (2) years immediately prior to his death."

The 2012 amendment added (1)(b).

### § 35-1-43. Establishment, operation and maintenance of Mississippi Persian Gulf War Memorial; purpose of memorial; Mississippi Persian Gulf War Memorial Fund.

(1) The State Veterans Affairs Board may establish, operate and maintain a Mississippi Persian Gulf War Memorial on the grounds of the Mississippi Veterans Memorial Cemetery in Newton County, Mississippi. The purpose of the memorial is to honor and commemorate the sacrifices and service of United States Armed Forces personnel from Mississippi who have served or will serve in the Persian Gulf War between August 2, 1990, and the date on which the conflict is declared to be over, as established by law or presidential proclamation.

(2) The State Veterans Affairs Board is designated the agency of this state to receive any aid or funds from any source for the purpose of establishing, operating and maintaining the Persian Gulf War Memorial. The board may receive gifts, contributions, bequests and individual reimbursements from any source, the receipt of which shall not exclude any other source of revenue.

(3) There is created in the State Treasury a special fund to be known as the “Mississippi Persian Gulf War Memorial Fund.” All funds received by the board under subsection (2) must be deposited into the special fund and expended by the board to establish, operate and maintain the Mississippi Persian Gulf War Memorial.

**SOURCES:** Laws, 2010, ch. 356, § 2, eff from and after passage (approved Mar. 15, 2010.)

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the name of the war memorial at the end of (3), as it was enacted by Section 2 of Chapter 356, Laws of 2010, by substituting “Mississippi Persian Gulf War Memorial” for “Mississippi Iraq Afghanistan War Memorial.” The Joint Committee ratified the correction at its July 13, 2011, meeting.

**Editor’s Note** — Laws of 2010, ch. 356, § 1 provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, may transfer to the State Veterans Affairs Board certain state-owned real property located at the Mississippi State University Coastal Plains Experiment Station in Newton County, Mississippi, such property being more specifically described as follows:

“Commence at an iron pin marking the Southwest corner of the SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 6 North, Range 12 East, Newton County, Mississippi;

“Thence run North for a distance of 95.95 feet to a  $\frac{1}{2}$ ” round iron pin;

“Thence run East for a distance of 184.22 feet to a  $\frac{1}{2}$ ” round iron pin; Said point being the Point of Beginning of the herein described parcel of land;

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“Thence run South 13 degrees 50 minutes 47 seconds West for a distance of 790.43 feet to a  $\frac{1}{2}$ ” round iron pin on the north right-of-way line of Mississippi Highway No. 80;

“Thence run North 76 degrees 00 minutes 58 seconds West along said north right-of-way line of Highway 80 a distance of 472.38 feet to a  $\frac{1}{2}$ ” round iron pin;

“Thence run North 16 degrees 31 minutes 02 seconds East for a distance of 499.06 feet to a  $\frac{1}{2}$ ” round iron pin;

“Thence run North 00 degrees 32 minutes 52 seconds East for a distance of 568.60 feet to back to the Point of Beginning; Said parcel of land is part of the SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 6 North, Range 12 East and part of the NW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 28, Township 6 North, Range 12 East, Newton County, Mississippi, and contains 12.172 acres more or less.

“(2) The real property described in subsection (1) shall be used by the State Veterans Affairs Board as an addition to the Mississippi Veterans Memorial Cemetery, on the grounds of which the board may construct and maintain a Mississippi Persian Gulf War Memorial.”

**Cross References** — Authority for establishment of Mississippi Persian Gulf War Memorial, see § 35-1-43.



## CHAPTER 5

## Guardianship of Veterans

SEC.

35-5-31. Commitment to Veterans Administration or other agency of the United States government.

**§ 35-5-31. Commitment to Veterans Administration or other agency of the United States government.**

(1) Whenever, in any proceeding under the laws of this state for the commitment of a person alleged to be a person with mental illness, person with an intellectual disability, or otherwise of unsound mind, or otherwise in need of confinement in a hospital or other institution for his proper care, it is determined after the adjudication of the status of the person as may be required by law that commitment to a state psychiatric hospital or institution or other institution is necessary for safe-keeping or treatment, and it appears that the person is eligible for care or treatment by the Veterans Administration or other agency of the United States government, the court, upon receipt of a certificate from the Veterans Administration or such other agency showing that facilities are available and that the person is eligible for care or treatment in those facilities, may commit the person to the Veterans Administration or other agency. The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner provided by the law of this state; and nothing in this section shall affect his right to appear and be heard in the proceedings. Upon commitment, the person, when admitted to any facility operated by the Veterans Administration or other agency within or without this state shall be subject to the rules and regulations of the Veterans Administration or other agency. The chief officer of any facility of the Veterans Administration or institution operated by any other agency of the United States to which the person is so committed shall, with respect to the person, be vested with the same powers as superintendents of state psychiatric hospitals or institutions within this state with respect to retention of custody, transfer, parole or discharge. Jurisdiction is retained in the committing or other appropriate court of this state at any time to inquire into the mental condition of the person so committed, and to determine the necessity for continuance of his restraint, and all commitments under this section are so conditioned.

(2) The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to the Veterans Administration or other agency of the United States government for care or treatment, shall have the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order, and the courts of the committing state or of the District of Columbia shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring

into the mental condition of the person and of determining the necessity for continuance of his restraint, as is provided in subsection (1) of this section with respect to persons committed by the courts of this state. Consent is given to the application of the law of the committing state or District of Columbia in respect to the authority of the chief officer of any facility of the Veterans Administration or of any institution operated in this state by any other agency of the United States to retain custody, or transfer, parole or discharge the committed person.

(3) Upon receipt of a certificate of the Veterans Administration or such other agency of the United States that facilities are available for the care or treatment of any person committed to a state psychiatric hospital or institution or for the care or treatment of persons similarly afflicted, and that the person is eligible for care or treatment, the superintendent of the state psychiatric hospital or institution may cause the transfer of the person to the Veterans Administration or other agency of the United States for care or treatment. Upon effecting any such transfer, the committing court or proper officer of the court shall be notified of the transfer by the transferring agency. No person shall be transferred to the Veterans Administration or other agency of the United States if he is confined because of conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of insanity, unless before transfer, the court or other authority originally committing the person enters an order for the transfer after appropriate motion and hearing.

Any person transferred as provided in this section shall be deemed to be committed to the Veterans Administration or other agency of the United States under the original commitment.

**SOURCES:** Codes, 1930, § 7349; 1942, § 7506; Laws, 1930, ch. 204; Laws, 1944, ch. 176, § 1; Laws, 2008, ch. 442, § 13; Laws, 2010, ch. 476, § 8, eff from and after passage (approved Apr. 1, 2010.)

**Amendment Notes** — The 2008 amendment, throughout the section, substituted “state psychiatric hospital or institution” for references to “hospital for mental disease,” and “state insane hospital or any other hospital or other institution for the care of the insane,” and made minor stylistic changes; and in (1), substituted “person with mental illness, person with mental retardation” for “lunatic, insane person, idiot, fool.”

The 2010 amendment substituted “persons with an intellectual disability” for “persons with mental retardation” in the first sentence of (1).

## CHAPTER 7

### Veterans' Home Purchase Law

- |          |                                                                                                                                                                                               |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEC.     |                                                                                                                                                                                               |
| 35-7-7.  | Creation of Veterans' Home Purchase Board; composition; qualifications, appointment, terms of office and compensation of members; general powers and duties of board; officers and employees. |
| 35-7-25. | Selection of home by veteran; contract between board and veteran; terms of payment; appraisal.                                                                                                |

§ 35-7-1. Short title.

JUDICIAL DECISIONS

1. Board as arm of state.

Where plaintiff Mississippi Veterans Home Purchase Board, a former mortgage lender, filed suit against defendant insurer in state court and the insurer removed the action, because the board was initially state-funded and nothing pre-

vented further such apportionments, the board was an arm of the state and not a "citizen" under 28 U.S.C.S. § 1332 for diversity jurisdiction. *Miss. Veterans Home Purchase Bd. v. State Farm Fire & Cas. Co.*, 492 F. Supp. 2d 579 (S.D. Miss. 2007).

§ 35-7-7. Creation of Veterans' Home Purchase Board; composition; qualifications, appointment, terms of office and compensation of members; general powers and duties of board; officers and employees.

The administration of the provisions hereof is vested in a Veterans' Home Purchase Board consisting of six (6) members who shall be appointed, or reappointed, by the Governor, with the advice and consent of the Senate. Members appointed to the board shall be veterans of either World War II, the Korean Conflict, the Southeast Asia Conflict, the Persian Gulf Conflict or have served in active duty for at least one hundred eighty (180) days during a time of war or a conflict in which a campaign ribbon or medal was issued and shall possess a background in business, banking, real estate or the legal profession which enables them to carry out the duties of the board. No state/department commander of any federally recognized veterans organization, no national officer of any federally recognized veterans organization and no member of the Mississippi Council of Veterans Organizations shall be eligible for appointment to the board until the expiration of a period of three (3) years after the termination of his service in such disqualifying positions. Appointments shall be staggered, with each Governor appointing or reappointing two (2) members in the first year of his administration; one (1) member in the second year, two (2) members in the third year, and one (1) member in the fourth year. Appointments for terms that expire in 1988 shall be made as follows: one (1) shall be made for a term ending on July 1, 1989; one (1) shall be made for a term ending on July 1, 1991; and two (2) shall be made for a term ending on July 1, 1992. Persons appointed to succeed the two (2) members whose terms expired in 1986, or any such member holding over after 1986 because no successor was appointed, shall serve until July 1, 1990. After the expiration of the foregoing terms, all appointments shall be for a term of four (4) years from the expiration date of the previous term. From and after July 1, 1988, one (1) appointee shall be selected from each of the five (5) congressional districts of this state as such districts are composed on May 1, 1987, and one (1) appointee shall be selected from the state at large. Any vacancy occurring during a term shall be filled by appointment of a member for the unexpired portion of the term.



The board is hereby authorized and empowered to make and promulgate such reasonable rules and regulations under this chapter as it shall deem to be necessary or advisable and to enforce the same. The board shall have authority to render final decision on the purchase application process, approval of purchases, funding of purchase commitments, servicing loans and default, property security, management, resale, release from security, and all other matters relating to the purchases and loans made under this law. The board shall likewise by an order spread on its minutes elect a chairman and vice chairman to serve for one-year terms, and all such officers are eligible to succeed themselves in such offices. The chairman may appoint a three-member loan committee from the membership of the board and shall specify the conditions, responsibilities and authority of such committee.

Each member of the board and his successor shall be reimbursed all his actual and necessary traveling and other expenses incurred in the attendance of the meetings of the board or in the performance of other duties in connection with the business of the board as provided for state officers and employees in Section 25-3-41, and shall be allowed a per diem as provided in Section 25-3-69 for such attendance; provided that the number of days per diem shall not exceed sixty-six (66) days for the chairman and fifty (50) days for other members of the board during any one (1) fiscal year. The above limitation of days per year shall not apply to board members appointed on a full-time basis to the loan committee.

The director, or other executive officer employed by the board, shall execute a surety bond in the sum of One Hundred Thousand Dollars (\$100,000.00), conditioned upon the faithful performance of his duties and upon his accounting for all monies coming into his hands; and each employee handling funds shall execute a like bond in the sum of Fifteen Thousand Dollars (\$15,000.00), and the premiums thereon shall be paid from the funds provided for administering this chapter.

The board may designate one (1) of its employees as the acting director or executive officer by a vote of the majority of the members of the board, officially recorded in the minutes of a regular or special meeting, and such acting director shall be vested with all the authority conferred upon the director by the provisions of this chapter; but such acting director may not serve for a continuous period of time in excess of six (6) months, and the acting director, when so designated, will be required to furnish surety bond in the same amount and under the same conditions as the director. The purpose of this provision is to designate an executive officer during any temporary illness, absence or incapacity of the regularly designated director.

The board may select and employ such expert, technical and clerical assistance as in its judgment may be necessary in the proper administration of said board and fix the salaries of such employees.

The board is empowered to employ auditors and accountants to examine the books, accounts and records of the board if it so desires, and the board is also authorized to employ legal counsel if it deems such a course necessary in the proper administration of its affairs.

**SOURCES:** Codes, 1942, §§ 7519, 7530; Laws, 1936, ch. 199; Laws, 1946, ch. 221, §§ 3, 4, 20; Laws, 1948, ch. 500, §§ 3, 4, 18; Laws, 1950, ch. 465, §§ 3, 4, 18; Laws, 1958, ch. 460, § 2; Laws, 1964, ch. 478; Laws, 1968, ch. 483, § 1; Laws, 1973, ch. 376, § 1; Laws, 1980, ch. 560, § 12; Laws, 1987, ch. 425, § 4; Laws, 1994, ch. 346, § 1; Laws, 2009, ch. 305, § 1, eff from and after passage (approved Mar. 2, 2009.)

**Amendment Notes** — The 2009 amendment added the third sentence of the first paragraph.

## JUDICIAL DECISIONS

### 1. Board as arm of state.

Where plaintiff Mississippi Veterans Home Purchase Board, a former mortgage lender, filed suit against defendant insurer in state court and the insurer removed the action, because the board was initially state-funded and nothing pre-

vented further such apportionments, the board was an arm of the state and not a "citizen" under 28 U.S.C.S. § 1332 for diversity jurisdiction. *Miss. Veterans Home Purchase Bd. v. State Farm Fire & Cas. Co.*, 492 F. Supp. 2d 579 (S.D. Miss. 2007).

## § 35-7-11. Offices of board; staff and related expenses; assistance from county veterans service officers and others.

## JUDICIAL DECISIONS

### 1. Board as arm of state.

Where plaintiff Mississippi Veterans Home Purchase Board, a former mortgage lender, filed suit against defendant insurer in state court and the insurer removed the action, because the board was initially state-funded and nothing pre-

vented further such apportionments, the board was an arm of the state and not a "citizen" under 28 U.S.C.S. § 1332 for diversity jurisdiction. *Miss. Veterans Home Purchase Bd. v. State Farm Fire & Cas. Co.*, 492 F. Supp. 2d 579 (S.D. Miss. 2007).

## § 35-7-15. Eligibility of veterans; applications; priority preferences; waiting lists; distribution of assistance.

## JUDICIAL DECISIONS

### 1. In general.

Where plaintiff Mississippi Veterans Home Purchase Board, a former mortgage lender, filed suit against defendant insurer in state court and the insurer removed the action, because the board was initially state-funded and nothing pre-

vented further such apportionments, the board was an arm of the state and not a "citizen" under 28 U.S.C.S. § 1332 for diversity jurisdiction. *Miss. Veterans Home Purchase Bd. v. State Farm Fire & Cas. Co.*, 492 F. Supp. 2d 579 (S.D. Miss. 2007).

## § 35-7-25. Selection of home by veteran; contract between board and veteran; terms of payment; appraisal.

(1) When a veteran has been authorized by the board to select the home he desires, he shall submit his selection in such form as may be prescribed by the board. If the board is satisfied of the desirability of the property submitted



and if such veteran has agreed with the board to actually reside upon such property within sixty (60) days from the date of purchase by the board, and if the price of said property to the board does not exceed the maximum provided in Section 35-7-17, then the board shall be empowered to purchase said property from the owner thereof, including the veteran under the provisions of Section 35-7-17(1), upon such terms as may be by them agreed upon. The board, in its discretion, is authorized to enter into a contract with the veteran for the sale and to consummate the sale of said property to said veteran. The board shall fix the selling price of such property by adding to the purchase price of said property or to the value of said property as determined by the board when such property is acquired by the board in a manner other than by purchase, as in foreclosure or repossession, all expenses incurred and estimated to be incurred by the board in relation thereto, inclusive of interest, administration, appraisals, examination of title, incidental expenses and such sum as shall be deemed necessary to meet unforeseen contingencies. The purchaser shall make an initial payment of at least twenty percent (20%) of the selling price of the property; however, the board may reduce or waive said initial payment for any veteran provided the loan contract is underwritten or guaranteed by the Veterans' Administration in accordance with the terms of the Servicemen's Readjustment Act of 1944, as amended. The balance of said selling price may be amortized over a period to be fixed by the board, but not exceeding thirty (30) years, together with interest thereon at a rate which shall be fixed by the board, which shall in no case be less than two and one-half percent (2 ½%) per annum, and which shall in no case be higher than the rate of interest authorized and permitted by the Veterans' Administration for loans guaranteed under the provisions of Title III of the Servicemen's Readjustment Act of 1944, as amended. The purchaser shall have the right at any time to pay any or all installments still remaining unpaid. In any individual case, the board may for good cause postpone from time to time, upon such terms as the board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The board is empowered in each individual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this chapter.

(2) Before the purchase of any property by the board, there must be filed with said board an appraisalment of the fair and reasonable value of such property by a qualified appraiser. Each appraisalment shall state, among other things, that it is made in good faith and that the valuation is honestly determined and represents the bona fide opinion of the maker.

(3) The board, before consummating the purchase under the provisions of this section, shall be satisfied that title to the property sought to be purchased is good.

**SOURCES:** Codes, 1942, §§ 7520, 7522; Laws, 1936, ch. 199; Laws, 1946, ch. 221, §§ 7, 9-11; Laws, 1948, ch. 493, § 1, ch. 500, §§ 7, 9-11; Laws, 1950, ch. 465, §§ 7, 9-11; Laws, 1956, ch. 352, §§ 1, 2; Laws, 1958, ch. 460, §§ 3, 5; Laws, 1962, ch. 478, §§ 1, 3; Laws, 1964, ch. 479; Laws, 1968, ch. 481, §§ 1, 2; Laws, 1974, ch. 404, § 3; Laws, 1979, ch. 313, § 4; Laws, 1985, ch. 501, § 5; Laws,

1987, ch. 425, § 10; Laws, 2009, ch. 306, § 1, eff from and after passage (approved Mar. 2, 2009.)

**Amendment Notes** — The 2009 amendment substituted “which shall in no case be less than two and one-half percent (2 ½%) per annum” for “which shall in no case be less than four percent (4%) per annum” in the sixth sentence of (1).

**§ 35-7-45. Funds; sale of mortgages; issuance of notes.**

**JUDICIAL DECISIONS**

**1. Board as arm of state.**

Where plaintiff Mississippi Veterans Home Purchase Board, a former mortgage lender, filed suit against defendant insurer in state court and the insurer removed the action, because the board was initially state-funded and nothing pre-

vented further such apportionments, the board was an arm of the state and not a “citizen” under 28 U.S.C.S. § 1332 for diversity jurisdiction. *Miss. Veterans Home Purchase Bd. v. State Farm Fire & Cas. Co.*, 492 F. Supp. 2d 579 (S.D. Miss. 2007).

# TITLE 37

## EDUCATION

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## CHAPTER 1

### State Board of Education

|          |                                                                                                                                      |
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| 37-1-11. | Duties of State Department of Education and local boards as to preservation of classroom instructional time and paperwork reduction. |
| 37-1-12. | Development and promulgation of regulations for annual reports from schools and State Department of Education to Legislature.        |

### **§ 37-1-1. Establishment; composition; qualifications, appointment, terms of office and compensation of members; meetings; officers.**

**Editor's Note** — Laws of 2011, ch. 511, § 2, effective April 26, 2011, provides:

“SECTION 2. (1) The State Board of Education, in conjunction with the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges, shall study and develop a comprehensive report and recommendations to the 2012 Legislature, by January 2, 2012, on the implementation, expansion

and costs associated with the establishment of an Adult High School Diploma. The Chairmen of the House and Senate Education Committees, or their respective designees, and a representative appointed by the Governor, shall serve on the study panel for the development of an Adult High School Diploma.

“(2) The gubernatorial appointment to the study panel shall be made within thirty (30) days after the effective date of this act.

“(3) Legislative members of the study panel shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the study panel from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house; however, no expense for attending meetings of the study panel may be paid while the Legislature is in session.”

## **§ 37-1-2. Legislative findings and determinations; state policy.**

### **ATTORNEY GENERAL OPINIONS**

A school board may employ legal counsel other than the Board Attorney only by a majority vote of a quorum present in a properly noticed and open meeting of the board, and must officially hire an attorney before sharing any confidential personnel records. Reasons for non-renewal of a superintendent's contract and any settle-

ment offers must be approved and recorded in the minutes at an official meeting of the board. All policies, actions, and decisions of the school board must be reasonable and necessary to meet the educational needs of the district's children. Foreman, March 30, 2007, A.G. Op. #07-00119, 2007 Miss. AG LEXIS 71.

## **§ 37-1-11. Duties of State Department of Education and local boards as to preservation of classroom instructional time and paperwork reduction.**

(1) The school day shall be preserved for the purpose of teaching. It is the intent of the Legislature that every effort be made by the State Department of Education and the local school boards to protect the instructional time in the classroom and to reduce the amount of paperwork which must be completed by teachers.

(2) The State Board of Education shall adopt rules that provide for simplifying and reducing the number and length of written reports and other written documents that the State Department of Education requires from school districts and school district employees. The board shall conduct a comprehensive review of its rules to simplify and to reduce the number and length of reports required from school districts and school district employees. The State Department of Education shall provide nonmandatory models to school districts of lesson plans, curriculum guides and other required reports that comply with department reporting requirements.

(3) The State Board of Education and the school board of each school district shall adopt policies to limit and reduce the number and length of written reports that classroom teachers are required to prepare.



**SOURCES:** Laws, 1987, ch. 375; Laws, 2011, ch. 442, § 7, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment deleted former (3) which read: “As part of its annual report to the Legislature, the State Board of Education shall include a statement of the total number and length of reports that it requires school districts and school district employees to prepare and of its efforts to reduce overall reporting requirements. The board shall identify for the Legislature those reports required by federal law or rule, those reports specifically required by state law and those reports required by department rule.”

### **§ 37-1-12. Development and promulgation of regulations for annual reports from schools and State Department of Education to Legislature.**

The State Board of Education shall develop and promulgate regulations for annual reports from schools and from the State Department of Education to the Legislature. Such regulations shall eliminate duplication, make effective use of technology and enable the Legislature to monitor education in Mississippi. These regulations may include methods to reduce redundant reporting requirements and eliminate inadequate performance measures, and the State Board of Education may include any proposed legislative amendments to state law necessary to improve statewide reporting mandates.

**SOURCES:** Laws, 2011, ch. 442, § 1, eff from and after July 1, 2011.

## **CHAPTER 3**

### **State Department of Education**

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- 37-3-101. In-service training on suicide prevention education for all licensed teachers and principals.
- 37-3-103. In-service training on suicide prevention education for newly employed licensed teachers and principals.
- 37-3-105. In-service training for all licensed grades K through 3 teachers to include intensive, comprehensive, research-based reading methods.
- 37-3-107. Curriculum guidelines for implementation of school bus safety curriculum for grades K through 3.

## § 37-3-2. Certification of teachers and administrators.

(1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each congressional district: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the State Board for Community and Junior Colleges; one (1) local school board member; and four (4) laypersons. All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4)(a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary and coordinator for the commission. No less than two (2) other appropriate staff members of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall be established within the State Department of Education to assist the commission in responding to infractions and violations, and in conducting hearings and enforcing the provisions of Section 37-3-2(11), (12), (13), (14) and (15), Mississippi Code of 1972, and violations of the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval of the State Board of Education, for all educator preparation programs in the state;

(b) Recommend to the State Board of Education each year approval or disapproval of each educator preparation program in the state, subject to a process and schedule determined by the State Board of Education;

(c) Establish, subject to the approval of the State Board of Education, standards for initial teacher certification and licensure in all fields;

(d) Establish, subject to the approval of the State Board of Education, standards for the renewal of teacher licenses in all fields;

(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6)(a) **Standard License — Approved Program Route.** — An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local



school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements. Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following: Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a bachelor of science degree with child development emphasis from a program accredited by the American Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a bachelor of science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS);

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations; and

(iv) Any other document required by the State Board of Education.

(b) **Standard License — Nontraditional Teaching Route.** — Beginning January 1, 2004, an individual who has a passing score on the Praxis I Basic Skills and Praxis II Specialty Area Test in the requested area of endorsement may apply for the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

(i) The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study



in which the student matriculates in the fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state, with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.

(ii) The school sponsoring the teacher intern shall enter into a written agreement with the institution providing the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

(iii) Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

(iv) During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a nontraditional provisional license, and shall, in consultation with the teacher intern's mentor at the school district of employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

(v) An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

(vi) Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard License — Nontra-

ditional Route shall submit to the commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License — Nontraditional Route which shall be valid for a five-year period and be renewable.

(vii) At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

(viii) The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate such Standard License — Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

A Standard License — Approved Program Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License — Approved Program Route or Standard License — Nontraditional Teaching Route over persons holding any other license.

(c) **Special License — Expert Citizen.** — In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A Special License — Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License — Nonrenewable.** — The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in subsection (6)(a), (b) or (c) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** — A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school

or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License — Transitional Bilingual Education.** — Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.

(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** — Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(i) **Administrator License.** — The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.



(a) **Administrator License — Nonpracticing.** — Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License — Entry Level.** — Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a Mississippi school district. Administrator License — Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License — Career Level.** — An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License — Nontraditional Route.** — The board may establish a nontraditional route for licensing administrative personnel. Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

**Reciprocity.** — (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) **Renewal and Reinstatement of Licenses.** — The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the

educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission of Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission or its subcommittee shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the committee or its subcommittee. An appeal to the State Board of Education shall be on the record previously made before the commission or its subcommittee unless otherwise provided by rules and regulations adopted by the board. The State Board of Education in its authority may reverse, or remand with instructions, the decision of the committee or its subcommittee. The decision of the State Board of Education shall be final.

(11) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(a) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(b) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(c) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effect, at the time of application for a license;

(d) Revocation or suspension of an applicant's certificate or license by another state;

(e) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;

(f) Failing or refusing to furnish reasonable evidence of identification;

(g) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law; or

(h) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law.

(12) The State Board of Education, acting on the recommendation of the commission, may revoke or suspend any teacher or administrator license for specified periods of time for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law;

(e) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense, as defined by federal or state law;

(f) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

(g) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(h) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(i) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(13)(a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the suspension or revocation of a license for a length of time which shall be determined by the commission and based upon the severity of the offense.

(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may only be reinstated by a majority vote of all members of the commission present at the meeting called for such purpose.

(14) A person whose license has been suspended on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension, or after one-half ( $\frac{1}{2}$ ) of the suspended time has lapsed, whichever is greater. A license suspended or revoked on the criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.



(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action and also notify the teacher or administrator of such revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars (\$200.00) conditioned that if the action of the board be affirmed by the chancery court, the applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become effective upon approval by the State Board of Education as designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public schools of Mississippi. This section shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section

93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 10; Laws, 1988, ch. 464, § 1; Laws, 1988, ch. 536, § 1; Laws, 1989, ch. 373, § 1; Laws, 1991, ch. 502, § 1; Laws, 1991, ch. 534, § 1; Laws, 1992, ch. 519, § 2; Laws, 1992, ch. 524, § 2; Laws, 1993, ch. 594, § 1; Laws, 1994, ch. 596, § 1; Laws, 1994, ch. 581, § 16; Laws, 1996, ch. 507, § 9; Laws, 1996, ch. 540, § 1; Laws, 1997, ch. 545, § 1; Laws, 2000, ch. 432, § 1; Laws, 2000, ch. 550, § 1; Laws, 2002, ch. 587, § 1; Laws, 2004, ch. 409, § 1; Laws, 2004, ch. 478, § 1; Laws, 2006, ch. 504, § 3; reenacted without change, Laws, 2009, ch. 345, § 2; reenacted and amended, Laws, 2009, ch. 445, § 2; Laws, 2011, ch. 514, § 1; Laws, 2012, ch. 376, § 1, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Section 2 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), amended this section. Section 2 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 445, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (12)(h) by inserting the word “or” following “as described in Section 97-5-23.” The Joint Committee ratified the correction at its July 13, 2011, meeting.

**Editor’s Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Amendment Notes** — The first 2009 amendment (ch. 345), reenacted this section without change.

The second 2009 amendment (ch. 445), reenacted and amended the section by rewriting (6)(g).

The 2011 amendment deleted the former next-to-last paragraph of (6)(b)(viii), which read: “The State Department of Education shall compile and report, in consultation with the commission, information relating to nontraditional teacher preparation internship programs, including the number of programs available and geographic areas in which they are available, the number of individuals who apply for and possess a nontraditional conditional license, the subject areas in which individuals who possess nontraditional conditional licenses are teaching and where they are teaching, and shall submit its findings and recommendations to the legislative committees on education by December 1, 2004”; rewrote (7)(d); added language beginning “and meets minimum Mississippi license” at the end of (8); inserted “or suspension” following “Revocation” in (11)(d); added (12)(g), (h), and (i); and made minor stylistic changes.

The 2012 amendment added (4)(b); and added “subject to a process and schedule determined by the State Board of Education” at the end of (5)(b).



**§ 37-3-3.1. State Department of Education board room designated the Senator Grey Ferris Board Room.**

The Board Room at the State Department of Education, located in Jackson, Mississippi, shall be named the Senator Grey Ferris Board Room. The Department of Finance and Administration shall prepare a distinctive plaque to be placed in a prominent place within the Senator Grey Ferris Board Room, which states the background, accomplishments and service to the state of the Honorable Grey Ferris.

**SOURCES:** Laws, 2009, ch. 460, § 1, eff from and after July 1, 2009.

**§ 37-3-4. School Executive Management Institute; basic and continuing education courses for school board members; additional required training for local school board members and the local superintendent; exemption of certain school administrators.**

(1) There is established within the State Department of Education, the School Executive Management Institute. The director shall be appointed by the State Board of Education upon recommendation by the State Superintendent of Public Education. The State Superintendent of Public Education, with the approval of the State Board of Education, shall assign sufficient staff members from the State Department of Education to the institute.

(2) It shall be the purpose and duty of the institute to conduct thorough empirical studies and analyses of the school management needs of the local school districts throughout the state, to make recommendations to the State Board of Education regarding standards and programs of training that aid in the development of administrative and management skills of local school administrators, and to conduct such programs related to these purposes as they are implemented under guidelines established by the State Board of Education.

(3) The State Board of Education shall develop and implement through the School Executive Management Institute a program for the development of administrative and management skills of local school administrators under which all local school administrators shall be required to participate. Subject to the extent of appropriations available for such purpose, the School Executive Management Institute or the Mississippi School Boards Association shall be required to offer courses at least twice a year on the uses of technology to principals, superintendents and other administrative personnel. These courses shall relate to the application of technology to learning, as well as administrative problems.

(4)(a) The institute shall have an advisory board composed of ten (10) qualified members appointed by the State Board of Education after consultation with the State Superintendent of Public Education. This advisory board will offer recommendations to the institute on the types of training to be instituted and supported. The membership of the advisory board shall be

composed of the following members, two (2) to be appointed from each congressional district: three (3) school administrators; one (1) representative of public community/junior colleges within the state; one (1) representative of a school of education in an institution of higher learning within the state; two (2) local school board members; one (1) classroom teacher; and two (2) laypersons. In making the initial appointments, three (3) members shall be appointed for a term of one (1) year, three (3) members shall be appointed for a term of two (2) years, two (2) members shall be appointed for a term of three (3) years, and two (2) members shall be appointed for a term of four (4) years. Thereafter, all members shall be appointed for a term of four (4) years. The advisory board shall meet when called by the director, but in no event fewer than three (3) times per year. The members of the advisory board shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(b) Board members of the Oxford-Lafayette Business and Industrial Complex shall be paid per diem and reimbursed for expenses and mileage from local funds in accordance with Section 37-6-13.

(5)(a) Basic Education Course. The Mississippi School Boards Association shall be responsible for preparing and conducting a course of training for basic education for the local school board members of this state, in order for board members to carry out their duties more effectively and be exposed to new ideas involving school restructuring. The basic course shall be known as the "School Board Member Training Course" and shall consist of at least twelve (12) hours of training. The Mississippi School Boards Association shall issue certificates of completion to those school board members who complete the basic education course.

(b) Continuing Education Course. The Mississippi School Boards Association shall be responsible for preparing and conducting a course of training for continuing education for the local school board members of this state, in order for board members to carry out their duties more effectively and be exposed to new ideas involving school restructuring. The continuing education course shall be known as the "Continuing Education Course for School Board Members" and shall consist of at least six (6) hours of training.

(c) Additional Required Training. Effective July 1, 2009, local school board members and the local superintendent that serve in a district with one or more failing schools as determined by the Mississippi Board of Education accountability system as provided for in Section 37-17-6, or serving in a school district that has a serious financial condition as determined by the State Auditor as provided for in Section 37-9-18, shall annually attend additional training provided by the Mississippi School Boards Association.

The Mississippi School Boards Association shall, subject to appropriation, develop and conduct training specific to the local boards' role in improving learning outcomes and effective financial management. Such training shall be known as "Improving Student Outcomes and Academic Success" which shall consist of not less than six (6) hours of training and

“Effective Financial Management In Local School Districts” which shall consist of not less than six (6) hours of training. Any local board members and the local superintendent that serve in a school district that meets the criteria for both of the training modules shall annually attend both training sessions for a total of not less than twelve (12) hours of training. At such time the school district is determined to no longer have failing schools; or no longer has a serious financial condition, such board member and the local superintendent shall no longer be required to attend the training as provided herein. The training as required under subsection (c) shall not replace, but is in addition to, the training required for new school board members and continuing board members as required under Section 37-7-306.

The Mississippi School Boards Association shall issue certificates of completion to those school board members who complete the continuing education course. All costs and expenses for preparing and conducting the basic education course and the continuing education course provided for in this paragraph shall be paid out of any funds which are made available to the Mississippi School Boards Association upon authorization and appropriation by the Legislature to the State Department of Education.

(6) The Mississippi School Boards Association shall prepare and submit a report each year to the State Board of Education and to the respective Chairs of the House and Senate Education Committees describing the activities and providing an evaluation of the continuing education programs offered by the association each year.

(7) The School Executive Management Institute of the State Department of Education, or the Mississippi School Boards Association with the oversight of the State Board of Education, at least twice a year, shall prepare and conduct required courses of training for continuing education for the elementary and secondary school principals of this state, in order for principals to carry out their duties more effectively and be exposed to new ideas involving school management. The continuing education course shall be known as the “Continuing Education Course for Principals” and shall consist of at least six (6) hours of training. The content of the continuing education courses and the time and place such courses are to be conducted shall be determined by the School Executive Management Institute or the Mississippi School Boards Association; however, to the extent practicable, such training sessions shall be held within geographical proximity of local districts in order that travel times and costs shall not be prohibitive.

The institute shall issue certificates of completion to those principals who complete such courses. All costs and expenses for preparing and conducting the basic and continuing education courses provided for in this subsection shall be paid out of any funds which are made available to the institute upon authorization and appropriation by the Legislature.

(8) Principals and other administrators with career level certifications at schools meeting the highest levels of accreditation standards, as defined by the State Board of Education, are exempt from the requirements of this section, subject to approval of the local superintendent.



**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 11; Laws, 1991, ch. 502, § 10; Laws, 1992, ch. 519, § 3; Laws, 1998, ch. 564, § 1; Laws, 2002, ch. 611, § 4; Laws, 2006, ch. 334, § 1; Laws, 2006, ch. 335, § 1; Laws, 2006, ch. 417, § 4; Laws, 2008, ch. 338, § 1; Laws, 2009, ch. 345, § 3; Laws, 2009, ch. 445, § 3; Laws, 2009, ch. 516, § 5, eff from and after passage (approved Apr. 8, 2009.)

**Joint Legislative Committee Note** — Section 3 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), amended this section. Section 3 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), and Section 5 of ch. 516, Laws of 2009, effective from and after passage (approved April 8, 2009), also amended this section. As set out above, this section reflects the language of Section 3 of ch. 445, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Editor's Note** — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Laws of 2009, ch. 516 § 1 provides:

"SECTION 1. This act shall be entitled and may be cited as the "Children First Act of 2009."

**Amendment Notes** — The 2008 amendment, in (5), added (c), and added the next-to-last paragraph.

The first 2009 amendment (ch. 345) reenacted this section without change.

The second 2009 amendment (ch. 445) reenacted and amended the section by, in the first paragraph of (5)(c), substituting "July 1, 2009" for "July 1, 2008," inserting "and the local superintendent," and substituting "failing schools" for "underperforming schools," in the second paragraph of (5)(c), inserting "and the local superintendent" both times it appears and substituting "failing schools" for "underperforming schools" in the fourth sentence, and rewriting (8).

The third 2009 amendment (ch. 516), in (5), in (c), substituted "July 1, 2009" for "July 1, 2008," inserted "and the local superintendent," and substituted "failing schools" for "underperforming schools," and in the next-to-last paragraph, inserted "and the local superintendent" both times it appears, and substituted "failing schools" for "underperforming schools"; and in (8), substituted "the highest levels of accreditation standards" for "Level 4 or 5 accreditation standards" and inserted "as defined by the State Board of Education" thereafter.

### § 37-3-7. Study of costs of insurance on school buildings and facilities.

(1) It shall be the duty and obligation of the State Department of Education, in addition to all other duties and responsibilities imposed upon it by law, to make a survey and study relative to the problem of the cost of insuring public school buildings and other school facilities in this state. Such study and survey shall have as its purpose and object the development and ascertainment of the amount of insurance premiums paid by the school districts of this state for fire, extended coverage and other hazard insurance upon public school buildings and other school facilities in this state, the



amount of losses paid by insurance companies under and by virtue of such insurance, the ratio of losses with respect to premiums collected, and such other facts and information with reference to the insurance of public school buildings and other school facilities and the cost thereof as shall be necessary and desirable.

(2) In making such study and survey, the State Department of Education shall be authorized and empowered to inspect and examine the financial records and accounts of the school districts of this state and of such other local, county and state agencies and instrumentalities as shall be deemed to be proper and desirable. It shall be the duty and obligation of all such school districts to prepare and file with the State Department of Education such reports relative to insurance premiums paid, losses sustained or incurred, and other pertinent information with reference to the problem of insurance on school buildings and other school facilities as the State Department of Education shall request.

(3) It shall be the duty and obligation of the State Insurance Commissioner, the State Fire Marshal, all other agencies of the State of Mississippi and the State Rating Bureau to cooperate with and assist the State Department of Education in the making of the study and survey herein provided for to the end that complete and accurate information shall be developed, and, for such purpose, it shall be the duty and obligation of all such agencies to furnish, upon request of the State Department of Education, all information, material and statistics relating to such study and survey as shall be within the keeping and possession of such agency.

(4) The information developed by the State Department of Education shall be a public record and shall be available for inspection by any interested party at all proper times.

**SOURCES:** Codes, 1942, § 6245-09.5; Laws, 1960, ch. 313, §§ 1-5; Laws, 1970, ch. 365, § 1; Laws, 2009, ch. 546, § 12; Laws, 2011, ch. 442, § 8, eff from and after July 1, 2011.

**Amendment Notes** — The 2009 amendment deleted “the state department of audit” following “state insurance commissioner” near the beginning of (3).

The 2011 amendment deleted “continuing” preceding “survey and study relative to the problem,” near the beginning of (1); deleted “and a summary thereof shall be included in the annual report of the State Department of Education” from the end of (4).

### **§ 37-3-8. Studies and reports by department of education relating to teaching out of fields and mastery of subject matters.**

The State Department of Education shall conduct the following studies and shall report its findings to the State Board of Education on July 1, 1984, and the board shall submit these reports to the next regular session of the Legislature together with any corrective action taken and with recommendations for any further corrective action that might be required:

(a) Teaching out of field. A study shall be conducted to determine the extent to which teachers are teaching out of their fields of certification; the conditions that promote such a practice; and the most appropriate remedies to the problem.

(b) Mastery of subject matter and learning skills. A study shall be conducted to determine the extent to which children master one level of course work before being advanced to the next level; what may be done to assure that progression from one level to another is properly sequenced; and what steps are now being taken to assure that children are progressing satisfactorily toward mastery of the material under study.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 7; Laws, 2011, ch. 442, § 9, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment deleted the former last sentence of the introductory paragraph which read: “The studies shall be updated on an annual basis to determine the effectiveness of the corrective action which has been taken.”

### **§ 37-3-9. Appointment, qualifications, compensation and bond of State Superintendent of Public Education.**

(1) There shall be a State Superintendent of Public Education who shall be appointed by the State Board of Education, with the advice and consent of the Senate, and serve at the board’s will and pleasure. He shall be the Chief Administrative Officer for the State Department of Education and shall administer the department in accordance with the policies established by the State Board of Education. The State Superintendent of Education, serving on July 1, 2011, shall continue to receive the salary that he was receiving on January 1, 2011. From and after the completion of the term of the said superintendent serving on July 1, 2011, the salary of the State Superintendent of Education shall be established by the State Board of Education. The State Superintendent of Public Education shall have at least a master’s degree in any field and a minimum of five (5) years’ experience in administration in the educational field.

(2) The State Superintendent shall give bond in the penalty of Seventy-five Thousand Dollars (\$75,000.00), with sureties to be approved by the Governor, conditioned according to law. The bond, when approved, shall be filed and recorded in the Office of the Secretary of State.

**SOURCES:** Codes, 1930, § 6555; 1942, § 6245-03; Laws, 1924, ch. 283; Laws, 1930, ch. 278; Laws, 1946, ch. 297, § 3; Laws, 1982, Ex Sess, ch. 17, § 14; Laws, 1986, ch. 432, § 2; Laws, 1999, ch. 581, § 2; Laws, 2011, ch. 421, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment, in (1), deleted “From and after July 1, 1984” from the beginning of the first sentence; rewrote the third sentence, which read “He shall receive such compensation in an amount equal to ninety percent (90%) of the salary of the Commissioner of Higher Education”; added the fourth sentence; and made minor stylistic changes.

**§ 37-3-11. General duties of state superintendent.**

The State Superintendent of Public Education shall perform the duties assigned to him by the State Board of Education, and he shall have the following duties:

- (a) To serve as secretary for the State Board of Education;
- (b) To be the chief administrative officer of the State Department of Education;
- (c) To recommend to the State Board of Education, for its consideration, rules and regulations for the supervision of the public free schools and agricultural high schools of the state and for the efficient organization and conduct of the same;
- (d) To collect data and make it available to the state board for determining the proper distribution of the state common school funds;
- (e) To keep a complete record of all official acts of the state superintendent and the acts of the State Board of Education;
- (f) To prepare, have printed and furnish all officers charged with the administration of the laws pertaining to the public schools, such blank forms and books as may be necessary to the proper discharge of their duties, which printing is to be paid for out of funds provided by the Legislature;
- (g) To have printed in pamphlet form the laws pertaining to the public schools and publish therein forms for conducting school business, the rules and regulations for the government of schools that the state superintendent or the State Board of Education may recommend, and such other matters as may be deemed worthy of public interest pertaining to the public schools, which printing is to be paid for out of funds provided by the Legislature;
- (h) To meet all superintendents annually at such time and place as the state superintendent shall appoint for the purpose of accumulating facts relative to schools, to review the educational progress made in the various sections of the state, to compare views, discuss problems, hear discussions and suggestions relative to examinations and qualifications of teachers, methods of instruction, textbooks, summer schools for teachers, visitation of schools, consolidation of schools, health work in the schools, vocational education and other matters pertaining to the public school system;
- (i) To advise all superintendents upon all matters involving the welfare of the schools, and at the request of any superintendent, to give an opinion upon a written statement of facts on all questions and controversies arising out of the interpretation and construction of the school laws, in regard to rights, powers and duties of school officers and superintendents, and to keep a record of all such decisions. Before giving any opinion, the superintendent may submit the statement of facts to the Attorney General, and it shall be the duty of the Attorney General forthwith to examine such statement and suggest the proper decision to be made upon such fact;
- (j) To require annually, and as often as the state superintendent may deem proper, of all superintendents, detailed reports on the educational business of the various districts;



(k) On or before January 10 in each year to prepare, under the direction of the State Board of Education, the annual information report of the State Department of Education as described in Section 37-151-97;

(l) To determine the number of educable children in the several school districts under rules and regulations prescribed by the State Board of Education; and

(m) To perform such other duties as may be prescribed by the State Board of Education.

**SOURCES:** Codes, 1930, § 6557; 1942, §§ 6245-07, 6245-07.5; Laws, 1924, ch. 283; Laws, 1930, ch. 278; Laws, 1946, ch. 297, § 7; Laws, 1966, ch. 418, § 1; Laws, 1970, ch. 364, § 1; Laws, 1982, Ex Sess, ch. 17, § 15; Laws, 1986, ch. 434, § 4; Laws, 2006, ch. 550, § 1; Laws, 2011, ch. 442, § 3, eff from and after July 1, 2011.

**Editor's Note** — Laws of 2011, ch. 494, § 1, provides:

“SECTION 1. (1) There is hereby established a Commission on School Payroll, Business and Procurement Efficiency, consisting of the following members:

“(a) The State Fiscal Officer, or his designee;

“(b) The State Superintendent of Education, or his designee;

“(c) A representative of the Mississippi School Superintendents Association (MASS);

“(d) A representative of the Mississippi School Business Officials Association (MSBO);

“(e) A representative of the Mississippi School Boards Association (MSBA);

“(f) Three (3) appointments, one (1) each by the Governor, the Lieutenant Governor and the State Treasurer, of qualified state or school district employees proficient in the areas of fiscal management, procurement, data processing or other fields of school business;

“(g) The Chairmen of the Senate and House Education Committees, who shall serve in an advisory, nonvoting capacity.

“The commission shall meet on a date designated by the State Fiscal Officer and organize by selecting a chairman and adopt rules for conducting business. Members of the commission shall serve without compensation, but may be reimbursed for necessary travel expenses from any available funds for attending official meetings of the commission. The Department of Finance and Administration and the State Department of Education shall jointly provide necessary administrative and clerical support for the functions of the commission.

“(2) The Commission on School Payroll, Business and Procurement Efficiency shall develop an implementation plan to bring coordinated payroll services, business services and procurement services online for all school districts in order to achieve efficiency and make a report thereon to the 2012 Regular Session of the Legislature on or before January 1, 2012. Said commission shall have the following responsibilities:

“(a) Review laws, rules, regulations, policies and procedures which affect the implementation and administration of the school payroll, business and procurement systems;

“(b) Identify required modifications and/or enhancements to the systems; and

“(c) Identify compliance requirements.

“(3) The Commission on School Payroll, Business and Procurement Efficiency shall include in its report to the Legislature at the 2012 Regular Session the anticipated savings and efficiencies to be gained resulting from the consolidation of the payroll, business and procurement functions of school districts to be implemented under this timetable. Such report shall include any technical legislative or administrative recommendations for further consolidation of payroll, business and procurement functions of school districts. Such report shall also include an administrative recommendation for

the consolidation or outsourcing of shared information technology, computer and telecommunications services for all school districts, in conjunction with the Mississippi Department of Information Technology Services.”

Laws of 2011, ch. 511, § 1, provides:

“SECTION 1. (1) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall develop a comprehensive report and recommendations to the 2012 Legislature on the implementation and operations of ‘Early College High Schools.’ The report shall be submitted no later than January 2, 2012, and shall provide, at a minimum, the following:

“(a) A clear definition of what constitutes an Early College High School and how it enhances education and job-related opportunities;

“(b) The mission and intent of such schools;

“(c) The established criteria for admission;

“(d) An outline of the comprehensive costs of establishing and operating such a school, including transportation, and recommendations on how the state and local school districts should pay those costs;

“(e) A requirement to provide reports on the status and level of success of operating Early College High Schools in other states across the country;

“(f) Implications for student participation in sports programs and other extracurricular activities when attending an Early College High School;

“(g) An identification of and recommendations on any state laws and policies that may need amending to provide authority for the implementation and operation of such schools;

“(h) Recommendations and costs for state and local funding of transportation services for other forms of dual enrollment programs operated across the state; and

“(i) Any other information as determined to be necessary to benefit the scope and detail of the report.

“(2) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall include specific recommendations on the establishment of an Early College High School Pilot Program in Mississippi in the report submitted to the 2012 Legislature.”

**Amendment Notes** — The 2011 amendment substituted “State Board of Education” for “board of education” in (g); and rewrote (k).

### **§ 37-3-46. Assistance to certain local schools or school districts to establish program of educational accountability and assessment of performance; personnel appraisal and compensation system for school employees; programs to prevent dropouts.**

(1) The State Department of Education, in regard to any school or school district not meeting adequate performance of accreditation standards, as defined by the State Board of Education, shall, subject to appropriation:

(a) Provide to local schools or school districts financial, training and other assistance to implement and maintain a state program of educational accountability and assessment of performance.

(b) Provide to local schools or school districts technical assistance and training in the development, implementation and administration of a personnel appraisal and compensation system for all school employees.

(c) Provide to local schools or school districts technical assistance in the development, implementation and administration of programs designed to keep children in school voluntarily and to prevent dropouts.

(2) Schools or school districts receiving assistance from the State Department of Education as outlined in subsection (1) of this section shall be required to implement any training, programs, and any other requirements as specified by the State Superintendent of Public Education.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 8; Laws, 2006, ch. 417, § 5; Laws, 2009, ch. 345, § 4; Laws, 2009, ch. 445, § 1; Laws, 2009, ch. 516, § 6; Laws, 2010, ch. 488, § 1, eff from and after July 1, 2010.

**Joint Legislative Committee Note** — Section 1 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), amended this section. Section 4 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), and Section 6 of ch. 516, Laws of 2009, effective from and after passage (approved April 8, 2009), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Editor's Note** — At the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, a statutory reference in (2) was changed by substituting "subsection (1) of this section" for "Section 37-3-46(1)."

Laws of 2009, ch. 516 § 1 provides:

"SECTION 1. This act shall be entitled and may be cited as the "Children First Act of 2009."

**Amendment Notes** — The first 2009 amendment (ch 345), reenacted this section without change.

The second 2009 amendment (ch. 445) reenacted and amended the section by adding (2), adding the subsection designation "(1)," and in the introductory language of (1), substituting "adequate performance of accreditation standards" for "Level 4 or 5 accreditation standards," adding "subject to appropriation" at the end, and making a minor stylistic change.

The third 2009 amendment (ch. 516), added (2); added the subsection designation "(1)"; and in the introductory language of (1), substituted "adequate performance of accreditation standards" for "Level 4 or 5 accreditation standards," added "subject to appropriation" at the end, and made a minor stylistic change.

The 2010 amendment, in the introductory paragraph in (1), substituted "school or school district" for "district"; in (1)(a) through (1)(c), inserted "schools or"; and in (2), substituted "Schools or school districts" for "districts."

### **§ 37-3-49. Adoption by school district of instructional program and management system; paperwork reduction; exemption of certain district.**

(1) The State Department of Education shall provide an instructional program and establish guidelines and procedures for managing such program in the public schools as part of the State Program of Educational Accountability and Assessment of Performance as prescribed in Section 37-3-46. Public school districts may (a) elect to adopt the instructional program and manage-



ment system provided by the State Department of Education, or (b) elect to adopt an instructional program and management system which meets or exceeds criteria established by the State Department of Education for such. This provision shall begin with the courses taught in Grades K-8 which contain skills tested through the Mississippi Basic Skills Assessment Program and shall proceed through all secondary school courses mandated for graduation and all secondary school courses in the Mississippi end-of-course testing program. Other state core objectives must be included in the district's instructional program as they are provided by the State Department of Education along with instructional practices, resources, evaluation items and management procedures. Districts are encouraged to adapt this program and accompanying procedures to all other instructional areas. The department shall provide that such program and guidelines, or a program and guidelines developed by a local school district which incorporates the core objectives from the curriculum structure are enforced through the performance-based accreditation system. It is the intent of the Legislature that every effort be made to protect the instructional time in the classroom and reduce the amount of paperwork which must be completed by teachers. The State Department of Education shall take steps to insure that school districts properly use staff development time to work on the districts' instructional management plans.

(2) The State Department of Education shall provide such instructional program and management guidelines which shall require for every public school district that:

(a) All courses taught in Grades K-8 which contain skills which are tested through the Mississippi Basic Skills Assessment Program, all secondary school courses mandated for graduation, and all courses in the end-of-course testing program shall include the State Department of Education's written list of learning objectives.

(b) The local school board must adopt the objectives that will form the core curriculum which will be systematically delivered throughout the district.

(c) The set of objectives provided by the State Department of Education must be accompanied by suggested instructional practices and resources that would help teachers organize instruction so as to promote student learning of the objectives. Objectives added by the school district must also be accompanied by suggested instructional practices and resources that would help teachers organize instruction. The instructional practices and resources that are identified are to be used as suggestions and not as requirements that teachers must follow. The goal of the program is to have students to achieve the desired objective and not to limit teachers in the way they teach.

(d) Standards for student performance must be established for each core objective in the local program and those standards establish the district's definition of mastery for each objective.

(e) There shall be an annual review of student performance in the instructional program against locally established standards. When weak-

nesses exist in the local instructional program, the district shall take action to improve student performance.

(3) The State Board of Education and the board of trustees of each school district shall adopt policies to limit and reduce the number and length of written reports that classroom teachers are required to prepare.

(4) This section shall not be construed to limit teachers from using their own professional skills to help students master instructional objectives, nor shall it be construed as a call for more detailed or complex lesson plans or any increase in testing at the local school district level.

(5) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions of subsection (2) of this section.

**SOURCES:** Laws, 1988, ch. 487, § 14; Laws, 1991, ch. 423, § 1; Laws, 1992, ch. 519, § 4; Laws, 2006, ch. 417, § 6, eff from and after July 1, 2006; reenacted without change, Laws, 2009, ch. 345, § 5; reenacted and amended, Laws, 2009, ch. 445, § 4, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Section 4 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), amended this section. Section 5 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), also amended this section. As set out above, this section reflects the language of Section 4 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The first 2009 amendment (ch. 345) reenacted this section without change.

The second 2009 amendment (ch. 445) reenacted and amended the section by substituting “the highest levels of” for “Level 4 or 5” in (5).

### § 37-3-53. “Mississippi Report Card” on performance of students and public schools.

Each school year, the State Board of Education, acting through the Office of Educational Accountability, shall develop a public school reporting system, or “Mississippi Report Card,” on the performance of students and schools at the local, district and state level. In developing the report card, the Office of Educational Accountability shall collect school, district and state level student achievement data in the appropriate grades as designated by the State Board of Education in all core subjects, and compare the data with national standards to identify students’ strengths and weaknesses. The Mississippi Report Card shall provide more than reports to parents on the level at which their children are performing; the report shall provide clear and comparable public information on the level at which schools, school districts and the state public education system are performing. The Office of Educational Accountability shall encourage local school districts and the general public to use Mississippi Report Card information along with local individual student data to assess the quality of instructional programs and the performance of schools and to plan and implement programs of instructional improvement.

Beginning with the 1998-1999 school year, the Mississippi Report Card shall include information, as compiled by the Office of Compulsory School Attendance Enforcement, which demonstrates clearly the absenteeism and dropout rates in each school district and the state and whether those rates reflect a positive or negative change from the same information as reported in the previous year's Mississippi Report Card.

Each local school district shall be required to develop and publish an annual report as prescribed by the State Board of Education. By November 1 of each year, as prescribed by the State Board of Education, the report shall be published in a newspaper having general circulation in the county and posted on the school district's website in a printable format. The public notice shall include information on the report's availability on the district's website, with the website address, and the location(s) in the school district where a copy of the report can be obtained.

**SOURCES:** Laws, 1992, ch. 419, § 14; Laws, 1994, ch. 581, § 9; Laws, 1998, ch. 566, § 8; Laws, 2011, ch. 442, § 4, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment added the last paragraph.

**Cross References** — Task force to study and report on failing schools, see § 37-152-3.

### § 37-3-83. School Safety Grant Program.

(1) There is established within the State Department of Education, using only existing staff and resources, a School Safety Grant Program, available to all eligible public school districts, to assist in financing programs to provide school safety. However, no monies from the Temporary Assistance for Needy Families grant may be used for the School Safety Grant Program.

(2) The school board of each school district, with the assistance of the State Department of Education School Safety Center, shall adopt a comprehensive local school district school safety plan and shall update the plan on an annual basis.

(3) Subject to the extent of appropriations available, the School Safety Grant Program shall offer any of the following specific preventive services, and other additional services appropriate to the most current school district school safety plan:

(a) Metal detectors;

(b) Video surveillance cameras, communications equipment and monitoring equipment for classrooms, school buildings, school grounds and school buses;

(c) Crisis management/action teams responding to school violence;

(d) Violence prevention training, conflict resolution training, and other appropriate training designated by the State Department of Education for faculty and staff; and

(e) School safety personnel.

(4) Each local school district of this state may annually apply for school safety grant funds subject to appropriations by the Legislature. School safety



grants shall include a base grant amount plus an additional amount per student in average daily attendance in the school or school district. The base grant amount and amount per student shall be determined by the State Board of Education, subject to specific appropriation therefor by the Legislature. In order to be eligible for such program, each local school board desiring to participate shall apply to the State Department of Education by May 31 before the beginning of the applicable fiscal year on forms provided by the department, and shall be required to establish a local School Safety Task Force to involve members of the community in the school safety effort. The State Department of Education shall determine by July 1 of each succeeding year which local school districts have submitted approved applications for school safety grants.

(5) As part of the School Safety Grant Program, the State Department of Education may conduct a pilot program to research the feasibility of using video camera equipment in the classroom to address the following:

(a) Determine if video cameras in the classroom reduce student disciplinary problems;

(b) Enable teachers to present clear and convincing evidence of a student's disruptive behavior to the student, the principal, the superintendent and the student's parents; and

(c) Enable teachers to review teaching performance and receive diagnostic feedback for developmental purposes.

(6) Any local school district may use audio/visual-monitoring equipment in classrooms, hallways, buildings, grounds and buses for the purpose of monitoring school disciplinary problems.

**SOURCES:** Laws, 1994, ch. 607, § 11; Laws, 1997, ch. 525, § 1; Laws, 2001, ch. 486, § 3; Laws, 2011, ch. 442, § 10, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment deleted former (7), which read: "The State Department of Education shall report annually to the Chairmen of the Education Committees in the House of Representatives and Senate on the operation of the School Safety Center and the School Safety Grant Program, along with any recommendations for expansion or revision of the program."

### § 37-3-85. After-school mentoring programs.

(1) The Legislature finds that:

(a) Students who are serious behavior problems in school are at risk of becoming juvenile and adult offenders;

(b) Growing numbers of children live in conditions that place them at risk of school failure;

(c) The provision of school and support services to these children and their families by public and nonprofit agencies is fragmented and does not prepare these children to learn effectively and have a successful school experience;

(d) The lack of collaboration among schools, families, local agencies and other groups involved in family support and youth development activities

results in the inefficient and ineffective use of resources to meet the needs of these children;

(e) Schools are dedicating an increasing amount of their time and resources to responding to disruptive and violent behavior rather than fulfilling their mission to challenge with high expectations each child to learn, to achieve and to fulfill his or her potential;

(f) Responding to the needs of students who are at risk of school failure and providing for a safe and secure learning environment are cost-effective because it enables the state to substitute preventive measures for expensive crisis intervention; and

(g) Differing local needs and local resources necessitate the development of locally generated, community-based plans that coordinate and leverage existing resources, not the imposition of uniform and inflexible, state-mandated plans.

(2) There is established within the State Department of Education the Support Our Students (S.O.S.) program. The purpose of the program is to award grants to neighborhood- and community-based organizations to establish local S.O.S. programs that provide high quality after-school mentoring activities for school-aged children and provide for comprehensive, collaborative delivery of mentoring services by public and nonpublic agencies to these children. These services shall be designed to enrich and make a positive impact on the lives of school-aged children. These after-school activities may include activities after the regular school day and activities on days that students are not required to attend school.

(3) The goals of the S.O.S. program are to:

(a) Reduce juvenile crime in local communities served by the program;

(b) Recruit community volunteers to provide positive adult role models for school-aged children and to help supervise after-school activities;

(c) Reduce the number of students who are unsupervised after school, otherwise known as “latchkey” children;

(d) Improve the academic performance of students participating in the program;

(e) Meet the physical, intellectual, emotional and social needs of students participating in the program and improve their attitudes and behavior; and

(f) Improve coordination of existing resources and enhance collaboration so as to provide services to school-aged children effectively and efficiently.

(4) As used in this section, “school-aged children” means children enrolled in kindergarten through the ninth grade.

(5) The State Department of Education shall develop and implement the Support Our Students (S.O.S.) program. The department shall:

(a) Sponsor a statewide conference each year for teams of interested representatives to provide background information and assistance regarding all aspects of the program;

(b) Disseminate information regarding the program to interested neighborhood and community groups;

(c) Develop and disseminate a request for applications to establish local S.O.S. programs;

(d) Provide initial technical assistance to grant applicants and ongoing technical assistance as grants are implemented;

(e) Administer funds appropriated by the Legislature;

(f) Monitor the grants funded;

(g) Revoke a grant if necessary or appropriate;

(h) Develop and implement a performance-based evaluation system to evaluate the program;

(i) Report on the program implementation to the Legislature and the Office of the Governor;

(j) Adopt any rules necessary to implement this section.

(6) A community- or neighborhood-based 501(c)(3) entity or a consortium consisting of one or more local 501(c)(3) entities and one or more local school districts may apply for a grant.

(7) Applicants for grants shall submit to the State Department of Education an application that includes the following information:

(a) Identification of one or more neighborhoods to be served by the local S.O.S. program, based on a needs assessment of existing conditions for school-aged children to be served. Data used in the needs assessment may include for each neighborhood to be served by a local program (i) dropout statistics, (ii) the number and percentage of school-aged children who participate in the federal subsidized lunch program, (iii) the number of suspensions and expulsions involving school-aged children, (iv) the number of children to be served, (v) the number and percentage of students with two (2) working parents or one (1) single parent to be served at a site; (vi) the incidence of juvenile crime in the neighborhood, and (vii) any other relevant or unique local demographic data.

Local authorities shall provide this or related information on a timely basis to local 501(c)(3) entities submitting applications to establish local S.O.S. programs;

(b) A three-year plan that addresses data used in the needs assessment and that includes proposed goals and anticipated outcomes of the local S.O.S. program. The plan shall be prepared after consultation with local after-school programs, schools, community organizations or groups which have as their purpose assisting or helping school-aged children who are at risk of failing in school or entering the juvenile justice system, or other appropriate groups. In addition, the three-year plan shall provide for regular collaborative efforts to seek input and advice from parents of the students being served and from other citizens who reflect the demographic conditions of the students being served;

(c) A statement of how grant funds would be used to address local problems and what other resources would be used to address the problems. This statement should include a list of services to be offered that are related to the goals and outcomes and should include plans for recruiting volunteers to assist in the program's activities; and



(d) A process for assessing on an annual basis the success of the local plan for addressing the goals of the local S.O.S. program.

(8) The department shall develop and disseminate a request for applications and establish procedures to be followed in developing and submitting applications to establish local S.O.S. programs and administering grants to establish local S.O.S. programs.

In reviewing grant applications, the State Superintendent of Education shall consider the prevalence of under-served students and families in low-income neighborhoods and in isolated rural areas in the area for which the grant is requested, the severity of the local problems with regard to children at risk of school failure and with regard to school discipline, whether the proposed program meets state standards, and the likelihood that the locally designed plan will deal with the problems successfully. During the review process, the superintendent may recommend modifications in grant applications to applicants. The superintendent shall submit recommendations to the State Board of Education on which applicants should receive grants and the amount they should receive.

In selecting grant recipients, the State Board of Education shall consider (a) the recommendations of the superintendent, (b) the geographic location of the applicants, and (c) the demographic profile of the applicants. After considering these factors, the State Board of Education shall give priority to grant applications that will serve areas that have a high incidence of juvenile crime and that propose different approaches that can serve as models for other communities. The State Board of Education shall select the grant recipients prior to July 1, 1995, for local programs that will be in operation at the beginning of the 1995-1996 school year, and prior to July 1 and thereafter for the appropriate school year.

A grant recipient may request a modification of a grant or additional funds to implement a grant through the grant application process. The request shall be reviewed and accepted or rejected in the same manner as a grant application.

(9) The State Department of Education shall administer the grant program under the direction of the State Board of Education. The State Department of Education shall provide technical assistance to grant applicants and recipients.

(10) All agencies of the state and local government, including departments of human services, health departments, local mental health, and intellectual disability commissions, court personnel, law enforcement agencies and cities and counties shall cooperate with the State Department of Education and local school boards that receive grants in coordinating the S.O.S. program at the state level and in implementing the S.O.S. program at the local level.

(11) The Department of Education shall develop and implement an evaluation system, under the direction of the State Board of Education, that will assess the efficiency and effectiveness of the S.O.S. program. However, private schools shall not be included under the provisions of this act.

**SOURCES:** Laws, 1995, ch. 609, § 1; Laws, 2010, ch. 476, § 9, eff from and after passage (approved Apr. 1, 2010.)

**Editor's Note** — Laws of 2009, ch. 489, preamble and § 1 provide:

“WHEREAS, studies about what happens to unsupervised children indicate that when left alone, these children: have higher absentee rates at school and lower academic test scores; exhibit higher levels of fear, stress, nightmares, loneliness and boredom; are one and seven-tenths ( $1\frac{7}{10}$ ) times more likely to use alcohol; and are one and six-tenths ( $1\frac{6}{10}$ ) times more likely to smoke cigarettes; and

“WHEREAS, data shows that in several communities throughout the United States, the violent juvenile crime rate soars in the hours immediately after school and that children are most likely to be victims of a violent crime committed by a nonfamily member between 2:00 p.m. and 6:00 p.m.; and

“WHEREAS, research indicates that children who attend high quality after-school programs have better peer relations, emotional adjustment, conflict resolution skills, grades and conduct in school compared to their peers who are not in after-school programs; and

“WHEREAS, children who attend after-school programs spend more time in learning opportunities, academic activities and enrichment activities and spend less time watching television than their peers; and

“WHEREAS, in one (1) study, children who attended an after-school program missed fewer days of school, had better homework completion, better school behavior and higher test scores; and

“WHEREAS, polls show that ninety-two percent (92%) of Americans believe there should be organized activities for children and teens during after-school hours; and

“WHEREAS, polls show that seventy-five percent (75%) of Americans are ready to either pay more taxes or to forego a tax cut to provide children with good early childhood development programs and quality after-school programs; and

“WHEREAS, as working parents can attest, child care concerns continue after children are old enough to go to school: a parent who is employed full time can be away from home an average of two thousand four hundred (2,400) hours a year, and children spend less than half of that time in school. If children participate in a quality school-age care program or another organized out-of-school time activity, parents can be assured that their children are safe and supervised; NOW, THEREFORE,

“SECTION 1. (1) There is created a task force to be known as the ‘Mississippi After-School Initiative Task Force’ to develop a plan to ensure quality after-school programs for every school-age child in the State of Mississippi. The task force shall make a report of its findings and recommendations, including any recommended legislation, to the Governor and Legislature before December 1, 2009.

“(2) The members of the task force should represent several diverse disciplines including, but not limited to: violence prevention; parents; park districts; special need populations; private foundations; civic and cultural organizations; community-based youth service providers; law enforcement; education; local voluntary organizations; faith-based communities; health; research institutions; child and youth advocacy; alcohol, tobacco and substance abuse prevention; and mental health. The task force shall be composed of the following eleven (11) members:

“(a) The State Superintendent of Public Education, or his or her designee

“(b) The Executive Director of the Mississippi Department of Human Services, or his or her designee;

“(c) The Executive Officer of the State Department of Health, or his or her designee;

“(d) The Chairman of the House of Representatives Education Committee, or his or her designee;

“(e) The Chairman of the Senate Education Committee, or his or her designee; and

“(f) Two (2) persons from each of the three (3) Supreme Court districts to be appointed by the Governor, one (1) of whom shall be experienced in early childhood development,

runs an after-school program and an administrator of Head Start Program, for a total of six (6) members.

“(3) All members of the task force must be appointed within thirty (30) days after the effective date of this act. The task force shall hold its first meeting no later than August 15, 2009, on the call of the Governor at a place designated by him. At that first meeting, the task force shall elect from among its membership a chairman and other officers, if any, determined to be necessary. A majority of the membership of the task force shall constitute a quorum, and an affirmative vote of a majority of the task force shall be required for all actions taken. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting of the task force is scheduled.

“(4) The task force shall make an assessment of the after-school services available in this state, including identification of the number of children and youth served in after-school programs and of the various funding programs currently supporting after-school programs. The task force shall recommend a plan for coordinating after-school services and for achieving the goal of providing after-school services to every school-age child in the State of Mississippi.

“(5) Members of the task force other than the legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41, and the legislative members of the task force shall receive the compensation authorized for committee meetings when the Legislature is not in session. Payment of these expenses must be from funds made available specifically for such purpose by the Legislature or from any other public or private source.

“(6) The State Department of Education and the Mississippi Department of Human Services, acting jointly, shall provide appropriate staff support to assist the task force in carrying out its duties. Each department shall designate an appropriate employee to act as a point of contact for the provision of staff support to the task force.

“(7) Upon presentation of its report, the task force shall be dissolved.”

**Amendment Notes** — The 2010 amendment deleted “hereby” preceding “established” in the first sentence in (2); and substituted “and intellectual disability commissions” for “mental retardation” in (10).

### **§ 37-3-93. School Crisis Management Program; quick response teams; toll-free telephone service for reporting school violence.**

(1) Subject to the availability of funding specifically appropriated for such purpose, there is established a School Crisis Management Program under the State Department of Education. This program is to be initiated and executed by the department using only existing staff and resources. Under this program, the State Department of Education shall create an office making available a quick response team of personnel trained in school safety and crisis management to respond to traumatic or violent situations that impact students and faculty in the public schools in Mississippi. The School Crisis Management Program shall operate in accordance with the following:

(a) The basic response team shall consist of those personnel designated by the State Superintendent of Public Education, or their designees, depending on the size of the school and the nature of the event.

(b) In order to access the services of a response team, the request must be made by the local school principal or the superintendent of schools, who shall make the request to the State Department of Education or its contact designee.



(c) A response team shall enter a school to work with students and faculty for a period of no more than three (3) days, unless otherwise requested by the school district.

(d) The State Department of Education, or its designee, shall operate a toll-free incoming wide area telephone service for the purpose of receiving reports of suspected cases of school violence and other traumatic situations impacting on students and faculty in the public schools.

(e) The request made by a school district to access the services of a response team following a school safety incident may seek a review of the local school district's safety plan, and the results of this evaluation may be published by the local school board in a newspaper with wide circulation in the district.

(f) Subject to the availability of funds specifically appropriated therefor by the Legislature, the expenses of the quick response teams and their administrative support shall be provided from state funds. The State Department of Education may apply for and expend funds for the support and maintenance of this program from private and other funding sources.

(2) Local school districts, school superintendents and principals may request and utilize the services of quick response teams provided for under this section; however, this section does not require school officials to request the services of quick response teams.

**SOURCES:** Laws, 2001, ch. 486, § 4; Laws, 2003, ch. 416, § 1; Laws, 2007, ch. 416, § 1; Laws, 2010, ch. 488, § 4, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted (3), which was the repealer for the section.

## § 37-3-97. Repealed.

Repealed by Laws, 2011, ch. 442, § 20, effective from and after July 1, 2011.

§ 37-3-97. [Laws, 2006, ch. 346, § 5; Laws, 2006, ch. 504, § 14; reenacted without change, Laws, 2009, ch. 345, § 6, eff from and after June 30, 2009.]

**Editor's Note** — Former § 37-3-97 provided for a joint report on state teacher education programs.

## § 37-3-99. Curriculum choices for students who are interested in direct entry into the workforce upon high school graduation; pilot program to redesign secondary schools to function as workforce development centers [Repealed effective July 1, 2013].

(1) The State Department of Education shall design curriculum choices within the current requirements for a high school diploma for students who are interested in direct entry into the work force immediately following high school graduation. It is the intent of the Legislature that the curriculum for this

program be rigorous, meeting the requirements based on research outlining the skills needed for entry into the work force. The program shall comply with the federal No Child Left Behind Act. The department shall design the program for entering ninth graders. The department shall report to the Legislature on January 1, 2007, on its plan for the program. Students who choose the curriculum under the program will receive a standard diploma.

(2) The State Board of Education shall develop and pilot a program to redesign secondary schools in Mississippi to function not only as curriculum and educational entities but also as work force development centers. Contingent upon appropriations, the State Board of Education shall pilot a minimum of fifteen (15) sites to be selected through a process developed by the State Board of Education and to be implemented during the 2007-2008 school year. Beginning with the 2008-2009 school year, subject to appropriation, the State Board of Education shall phase in additional sites, based upon the criteria and selection process developed by the board, through the 2013-2014 school year.

This section shall stand repealed from and after July 1, 2013.

**SOURCES:** Laws, 2006, ch. 554, § 1; Laws, 2007, ch. 511, § 1; Laws, 2008, ch. 418, § 1, eff from and after July 1, 2008.

**Amendment Notes** — The 2008 amendment designated the former first and second paragraphs as (1) and (2); added the last sentence in (2); and extended the date of the repealer for the section by substituting “July 1, 2013” for “July 1, 2012.”

### **§ 37-3-101. In-service training on suicide prevention education for all licensed teachers and principals.**

In the 2009-2010 school year, the State Department of Education shall require that local school districts conduct in-service training on suicide prevention education for all licensed teachers and principals. The Mississippi Department of Mental Health will be responsible for development of the content of the training and determining the appropriate amount of time that should be allotted for the training. This education may be accomplished through self-review of suitable suicide prevention materials.

**SOURCES:** Laws, 2009, ch. 529, § 1, eff from and after July 1, 2009.

### **§ 37-3-103. In-service training on suicide prevention education for newly employed licensed teachers and principals.**

Beginning with the 2010-2011 school year, the State Department of Education shall require that local school districts conduct in-service training on suicide prevention education for all newly employed licensed teachers and principals. The Mississippi Department of Mental Health will be responsible for development of the content of the training and determining the appropriate amount of time that should be allotted for the training. This education may be accomplished through self-review of suitable suicide prevention materials.

SOURCES: Laws, 2009, ch. 529, § 2, eff from and after July 1, 2009.

**§ 37-3-105. In-service training for all licensed grades K through 3 teachers to include intensive, comprehensive, research-based reading methods.**

Beginning with the 2009-2010 school year, the State Department of Education shall require that in-service training shall include an emphasis on intensive, comprehensive and researched-based reading methods for all licensed teachers teaching Grades K through 3. The education may be accomplished through self-review of suitable intensive, comprehensive and researched-based reading materials.

SOURCES: Laws, 2009, ch. 529, § 3, eff from and after July 1, 2009.

**§ 37-3-107. Curriculum guidelines for implementation of school bus safety curriculum for grades K through 3.**

The State Department of Education shall develop and issue curriculum guidelines to school districts relating to the implementation of a school bus safety curriculum for implementation in Kindergarten through Grade 3.

SOURCES: Laws, 2011, ch. 481, § 4, eff from and after July 1, 2011.

**Editor's Note** — Chapter 481, Laws of 2011, which amended this section, is known as "Nathan's Law."

## CHAPTER 4

### Mississippi Community College Board

SEC.

37-4-5. Terms "Junior College Commission" and "State Board for Community and Junior Colleges" to mean "Mississippi Community College Board."

**§ 37-4-1. Legislative findings and declaration of policy.**

**Cross References** — Education Achievement Council to work collaboratively with the State Board for Community and Junior Colleges to achieve state's goal of increasing educational attainment and skill levels to national average, see § 37-163-1.

**§ 37-4-3. Establishment of board; composition; qualifications, appointment, terms of office and compensation of members; officers; director of state system of public junior and community colleges; general powers and duties of board.**

**Editor's Note** — Laws of 2009, ch. 438, § 1 provides:

"(1) The Mississippi Department of Finance and Administration is authorized to transfer a portion of state-owned real property, located at 3825 Ridgewood Road, Jackson, Mississippi, to the State Board for Community and Junior Colleges for



purposes of constructing a new facility, subject to funds becoming available to the board for that purpose. However, the property shall not be transferred until the requirements and conditions of subsections (2) and (3) of this section have been met.

“(2) The board, with approval of the Department of Finance and Administration, shall select a site for the building and grounds on the property described in subsection (1) of this section, and shall cause a survey to be made of the selected site. The board shall file a copy of the survey, along with documents evidencing approval of the board’s site selection by the Department of Finance and Administration in the land records in the Office of the Chancery Clerk of the First Judicial District of Hinds County, Mississippi, and with the Secretary of State.

“(3) The conveyance authorized in this section may be subject to additional terms and conditions accepted and agreed upon by the Mississippi Department of Finance and Administration and the board.”

Laws of 2009, ch. 489, § 2 provides:

“SECTION 2. (1) It is the intent of the Legislature and the expectation of each institution of higher learning and community and junior colleges in the state that all students in such institutions receive a quality education and graduate from such institutions. The Legislature also recognizes that annual performance reports show that a significant number of students underperform and fail to meet their goal of graduation.

“(2) To assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in such institutions of higher learning, there is established a task force to study and report on the graduation rates in the state institutions of higher learning and junior and community colleges.

“(3) The task force shall be composed of the following thirteen (13) members:

“(a) The Chairmen of the House and Senate Universities and Colleges Committees;

“(b) The Chairmen of the House and Senate Education Committees;

“(c) The State Superintendent of Public Education or his designee;

“(d) The Commissioner of Higher Education or his designee;

“(e) The Director of the State Board for Community and Junior Colleges or his designee;

“(f) The Chairman of the Board of Trustees of State Institutions of Higher Learning, the State Board for Community and Junior Colleges and the State Board of Education;

“(g) A representative of the Governor’s Office appointed by the Governor;

“(h) A president of one (1) comprehensive university appointed by the Board of Trustees of State Institutions of Higher Learning; and

“(i) A president of one (1) historical black university appointed by the Board of Trustees of State Institutions of Higher Learning.

“(4) Appointments to the task force must be made within thirty (30) days after the effective date of this act. Within fifteen (15) days after the expiration of the period for making appointments, on a day to be designated by the Commissioner of Higher Education, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman also must serve as secretary and be responsible for keeping all records of the task force. A majority of the membership of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting of the task force is scheduled.

“(5) The task force may contract for any professional services that it deems necessary to complete its work and shall tour any universities and community or junior colleges as it deems necessary. The Legislature shall appropriate sufficient funding to the Board of Trustees of State Institutions of Higher Learning for the contractual costs and travel associated with attending meetings and for the on-site visits to universities and community or junior colleges.

“(6) Members of the task force who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the task force shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the task force may be paid while the Legislature is in session. Task force members may not incur per diem, travel or other expenses unless previously authorized by vote at a meeting of the task force, which action must be recorded in the official minutes of the meeting. Nonlegislative members may be paid from any funds made available to the task force for that purpose.

“(7) The task force shall compile data, study and report on measures that may be taken to improve graduation rates in the universities, community colleges and junior colleges.

“(8) The Commissioner of Higher Education shall provide appropriate staff to assist the task force with carrying out its duties. Before December 31, 2009, the task force shall submit to the Legislature and the Governor a written report of its findings and recommendations on measures to improve graduation rates in universities, community colleges and junior colleges. Upon presentation of its report, the task force shall be dissolved.”

Laws of 2011, ch. 511, § 1, provides:

“SECTION 1. (1) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall develop a comprehensive report and recommendations to the 2012 Legislature on the implementation and operations of ‘Early College High Schools.’ The report shall be submitted no later than January 2, 2012, and shall provide, at a minimum, the following:

“(a) A clear definition of what constitutes an Early College High School and how it enhances education and job-related opportunities;

“(b) The mission and intent of such schools;

“(c) The established criteria for admission;

“(d) An outline of the comprehensive costs of establishing and operating such a school, including transportation, and recommendations on how the state and local school districts should pay those costs;

“(e) A requirement to provide reports on the status and level of success of operating Early College High Schools in other states across the country;

“(f) Implications for student participation in sports programs and other extracurricular activities when attending an Early College High School;

“(g) An identification of and recommendations on any state laws and policies that may need amending to provide authority for the implementation and operation of such schools;

“(h) Recommendations and costs for state and local funding of transportation services for other forms of dual enrollment programs operated across the state; and

“(i) Any other information as determined to be necessary to benefit the scope and detail of the report.

“(2) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall include specific recommendations on the establishment of an Early College High School Pilot Program in Mississippi in the report submitted to the 2012 Legislature.”

Laws of 2011, ch. 511, § 2, effective April 26, 2011, provides:

“SECTION 2. (1) The State Board of Education, in conjunction with the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges, shall study and develop a comprehensive report and recommendations to the 2012 Legislature, by January 2, 2012, on the implementation, expansion

and costs associated with the establishment of an Adult High School Diploma. The Chairmen of the House and Senate Education Committees, or their respective designees, and a representative appointed by the Governor, shall serve on the study panel for the development of an Adult High School Diploma.

“(2) The gubernatorial appointment to the study panel shall be made within thirty (30) days after the effective date of this act.

“(3) Legislative members of the study panel shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the study panel from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house; however, no expense for attending meetings of the study panel may be paid while the Legislature is in session.”

Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the ‘Mississippi Community College Board.’”

Laws of 2012, ch. 336, § 1, provides in part:

“SECTION 1. The Department of Finance and Administration, acting on behalf of the Mississippi Department of Public Safety, is authorized to donate and convey to Meridian Community College, certain real property and any improvements thereon, located at 841 Highway 19 North, in the City of Meridian, Lauderdale County, Mississippi, currently occupied by the Mississippi Highway Patrol, Troop H, and more particularly described as follows:

[For a complete description of the property, see Section 1 of Chapter 336, Laws of 2012.]

“(2) If at any time after the donation of the real property described in subsection (1) of this section Meridian Community College, ceases to use the real property for the purposes intended at the time of donation, the college shall forfeit its rights, title and interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi.

“(3) The State of Mississippi shall retain all mineral rights to the real property donated under this section.”

**Cross References** — Mississippi Community College Board to create accountability and transparency website; website to include, among other things, access to financial reports and audits, budgets, etc., see § 27-104-155.

Board to determine amount of fees authorized under §§ 75-60-15 and 75-60-27 after receiving recommendations from commission on proprietary school and college registration, see § 75-60-15.

### **§ 37-4-5. Terms “Junior College Commission” and “State Board for Community and Junior Colleges” to mean “Mississippi Community College Board.”**

The terms “Junior College Commission” and “State Board for Community and Junior Colleges,” whenever they appear in the laws of the State of Mississippi, mean the “Mississippi Community College Board.”

**SOURCES:** Laws, 1986, ch. 434, § 18; Laws, 2011, ch. 358, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment inserted “and ‘State Board for Community and Junior Colleges’ and substituted “Mississippi Community College Board” for “State Board for Community and Junior Colleges” and made minor stylistic changes.



CHAPTER 5

County Boards of Education and Superintendents

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COUNTY BOARDS OF EDUCATION

|         |                                                 |
|---------|-------------------------------------------------|
| SEC.    |                                                 |
| 37-5-9. | Nominating petition; election; runoff election. |

§ 37-5-9. Nominating petition; election; runoff election.

[Until the date Section 1, Chapter 470, Laws of 2009, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

The name of any qualified elector who is a candidate for the county board of education shall be placed on the ballot used in the general elections by the county election commissioners, provided that the candidate files with the county election commissioners, not more than ninety (90) days and not less than sixty (60) days prior to the date of such general election, a petition of nomination signed by not less than fifty (50) qualified electors of the county residing within each supervisors district. Where there are less than one hundred (100) qualified electors in said supervisors district, it shall only be required that said petition of nomination be signed by at least twenty percent (20%) of the qualified electors of such supervisors district. The candidate in each supervisors district who receives the highest number of votes cast in the district shall be declared elected.

When any member of the county board of education is to be elected from the county at large under the provisions of this chapter, then the petition required by the preceding paragraph hereof shall be signed by the required number of qualified electors residing in any part of the county outside of the territory embraced within a municipal separate school district or special municipal separate school district. The candidate who receives the highest number of votes cast in the election shall be declared elected.

In no case shall any qualified elector residing within a municipal separate school district or special municipal separate school district be eligible to sign a petition of nomination for any candidate for the county board of education under any of the provisions of this section.

[From and after the date Section 1, Chapter 470, Laws of 2009, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

(1) The name of any qualified elector who is a candidate for the county board of education shall be placed on the ballot used in the general elections by the county election commissioners, provided that the candidate files with the

county election commissioners, not more than ninety (90) days and not less than sixty (60) days prior to the date of such general election, a petition of nomination signed by not less than fifty (50) qualified electors of the county residing within each supervisors district. Where there are less than one hundred (100) qualified electors in the supervisors district, it shall only be required that the petition of nomination be signed by at least twenty percent (20%) of the qualified electors of such supervisors district. The candidate in each supervisors district who receives a majority of the votes cast in the district must be declared elected. If no candidate receives a majority of the votes cast in the general election, then the two (2) candidates who receive the highest number of votes cast in the district shall have their names submitted as candidates in a runoff election three (3) weeks after the date of the general election, and the candidate who receives a majority of the votes cast in the district in the runoff election must be declared elected.

(2) When any member of the county board of education is to be elected from the county at large under the provisions of this chapter, then the petition required by subsection (1) of this section shall be signed by the required number of qualified electors residing in any part of the county outside of the territory embraced within a municipal separate school district or special municipal separate school district. The candidate who receives a majority of the votes cast in the county must be declared elected. If no candidate receives a majority of the votes cast in the general election, then the two (2) candidates who receive the highest number of votes cast in the county shall have their names submitted as candidates in a runoff election three (3) weeks after the date of the general election, and the candidate who receives a majority of the votes cast in the county in the runoff election must be declared elected.

(3) In no case shall any qualified elector residing within a municipal separate school district or special municipal separate school district be eligible to sign a petition of nomination for any candidate for the county board of education under any of the provisions of this section.

**SOURCES:** Codes, 1942, § 6271-03; Laws, 1953, Ex Sess ch. 10, § 3; Laws, 1954, ch. 283, § 3; Laws, 1958, ch. 309, § 3; Laws, 1978, ch. 392, § 1; Laws, 2009, ch. 470, § 1, eff \_\_\_\_\_ the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2009, ch. 470, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or July 1, 2009, whichever is later.”

By letter dated August 28, 2009, the United States Attorney General interposed no objection to the change in the general election date provided for in Chapter 470, Laws of 2009. As for the proposed changes from a plurality vote to a majority vote

requirement for county school board members, for trustees for certain municipal separate school districts and for trustees for special municipal school districts, and the requirement that a runoff election be held three weeks after the election if no candidate received a majority, the U.S. Attorney General requested additional information from the state. After review of the information provided by the state, the U.S. Attorney General concluded that the state had not met its burden of showing that the proposed changes had neither a discriminatory purpose nor a discriminatory effect, and by letter dated March 24, 2010, objected to the proposed change from plurality to majority vote and the runoff requirement provided for in Chapter 470, Laws of 2009.

**Amendment Notes** — The 2009 amendment rewrote the section.

## COUNTY SUPERINTENDENTS OF EDUCATION

SEC.

- 37-5-68. County superintendent to be appointed in certain counties; referendum on question of changing from elective method.
- 37-5-71. Selection and qualifications of superintendent; persons disqualified from participating in election of superintendent.

### **§ 37-5-68. County superintendent to be appointed in certain counties; referendum on question of changing from elective method.**

Effective with the term of office beginning on January 1, 2012, the county superintendent of education shall be appointed by the county board of education in any county wherein is located the state's oldest state-supported university, having a population in excess of thirty-eight thousand (38,000) according to the 2000 federal decennial census and in which Mississippi Highways 6 and 7 intersect. Provided, however, if at any time prior to January 1, 2010, or ninety (90) days following August 10, 2009, whichever is earlier, a petition signed by not less than twenty percent (20%) or one thousand five hundred (1,500), whichever is less, of the registered, qualified electors of such county, exclusive of the municipal separate school district boundaries, is filed with the county board of education requesting that a referendum be called on the question of changing from the elective method of selecting the county superintendent of education to the appointive method, then the county board of education shall adopt, not later than the next regular meeting, a resolution calling a referendum to be called and held within the county school district boundaries upon the question. The referendum shall be scheduled for not more than six (6) weeks after the date such petition is filed with the board. When a referendum has been called, notice of the referendum shall be published at least five (5) days per week, unless the only newspaper published in the county school district is published less than five (5) days per week, for at least three (3) consecutive weeks, in at least one (1) newspaper published in the county school district. The notice shall be no less than one-fourth ( $\frac{1}{4}$ ) page in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication of the notice shall be made not less than



twenty-one (21) days before the date fixed for the referendum, and the last publication shall be made not more than seven (7) days before that date. If no newspaper is published in the county school district, then the notice shall be published in a newspaper having a general circulation in the county school district. The referendum shall be held, as far as is practicable, in the same manner as other referendums and elections are held in the county. At the referendum, all registered, qualified electors of the county school district, exclusive of the municipal separate school district boundaries, may vote. The ballots used at the referendum shall have printed thereon a brief statement of the purpose of the referendum and the words "FOR CHANGING FROM THE ELECTIVE TO THE APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF EDUCATION," and "AGAINST CHANGING FROM THE ELECTIVE TO THE APPOINTIVE METHOD OF SELECTING THE COUNTY SUPERINTENDENT OF EDUCATION." The voter shall vote by placing a cross (X) or checkmark (✓) opposite his choice on the proposition. If a majority of the registered, qualified electors of the county school district who vote in the referendum vote in favor of the question, then the change in selection method shall be approved. However, if a majority of the registered, qualified electors who vote in the referendum vote against the question, the change in selection method shall not be approved.

**SOURCES:** Laws, 2009, ch. 431, § 1, eff Aug. 10, 2009 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the enactment of this section.)

**Editor's Note** — On August 10, 2009, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the enactment of this section by Laws of 2009, ch. 431.

**§ 37-5-71. Selection and qualifications of superintendent; persons disqualified from participating in election of superintendent.**

**[Effective until the date Laws of 2012, ch. 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) The county superintendents of education shall be elected in the manner prescribed by the provisions of this chapter, unless such office be made appointive as provided in this chapter, in which case the county superintendent shall be appointed by the county board of education or by the trustees of a separate school district embracing an entire county with a population of fifteen thousand (15,000) or less, as provided in subsection (2) of Section 37-7-203. In all cases he shall have such qualifications as prescribed by Section 37-9-13 and receive such compensation as established under Section 37-9-37.

(2) All qualified electors residing within any municipal separate or special municipal separate school district shall not vote in the election for the county superintendent of education:

(a) In all counties of the second class which have a population, according to the 1960 federal decennial census of at least thirty-three thousand (33,000) and less than thirty-four thousand (34,000), and having a city located therein which is the Southern Division of the A.T. & S.F. Railroad Company;

(b) In all counties of the fourth class which have a population, according to the 1960 federal decennial census, in excess of twenty-six thousand (26,000) and less than twenty-seven thousand (27,000), and having located therein the Mississippi State University of Agriculture and Applied Science;

(c) In all counties of the first class which have a population, according to the 1960 federal decennial census, in excess of forty-six thousand (46,000) and less than forty-seven thousand (47,000), and having located therein the Mississippi University for Women;

(d) In any county bordering on the Mississippi Sound and having a population in excess of one hundred thousand (100,000), according to the 1960 federal decennial census, and having an assessed valuation in excess of Seventy Million Dollars (\$70,000,000.00);

(e) In any county having a population in excess of eight thousand (8,000) and less than nine thousand (9,000), and having an assessed valuation in excess of Five Million Dollars (\$5,000,000.00) but less than Six Million Dollars (\$6,000,000.00) in 1960;

(f) In any county having a population in excess of twenty-two thousand (22,000) and less than twenty-three thousand (23,000) in 1960, and having a total assessed valuation in excess of Thirteen Million Dollars (\$13,000,000.00) in 1960;

(g) In any county having a population in excess of fifty-nine thousand (59,000) but less than sixty thousand (60,000), according to the 1960 federal decennial census;

(h) In any county bordered on the east by the Alabama line and on the south by the Mississippi Sound;

(i) In any county where Mississippi Highway 35 crosses U.S. Highway 80 and whose population, according to the 1960 regular census, was between twenty-one thousand (21,000) and twenty-two thousand (22,000), and in which there are located four (4) or more chicken packing plants, one (1) zipper plant and one or more factories manufacturing Sunbeam electrical appliances;

(j) In any county having a population of twenty-six thousand one hundred ninety-eight (26,198) according to the 1970 census wherein Highways 51 and 84 intersect;

(k) In any county having a municipal separate school district lying therein, having a population in excess of twenty-one thousand (21,000) but less than twenty-one thousand five hundred (21,500), according to the 1960 decennial census, and having a combined assessed valuation in 1963 in excess of Sixteen Million Nine Hundred Thousand Dollars (\$16,900,000.00) but less than Seventeen Million Dollars (\$17,000,000.00) according to the State Tax Commission's compilation;

(l) In any county where Mississippi Highway 15 crosses Mississippi Highway 16, whose population was more than twenty thousand (20,000) and less than twenty-one thousand (21,000), according to the regular 1960 census, and within which there is located a Choctaw Indian reservation and school operated by the United States government;

(m) In any county where U.S. Highway 45W Alternate intersects Mississippi Highway 50, and having a population of eighteen thousand nine hundred thirty-three (18,933), according to the 1960 federal census;

(n) In any county having a population in excess of forty thousand five hundred (40,500), according to the 1960 federal decennial census, wherein U.S. Highways 78 and 45 intersect, and wherein there is a United States fish hatchery;

(o) In any county being traversed by Mississippi Highway 15 and U.S. Interstate Highway 20;

(p) In all counties wherein there is located a national military park and a national cemetery;

(q) In any county where U.S. Highway 82 crosses U.S. Interstate Highway 55 and having a population of twelve thousand three hundred eighty-seven (12,387) according to the 1990 federal decennial census;

(r) In any county where U.S. Highway 49E and U.S. Highway 82 intersect, and having a population of thirty-seven thousand three hundred forty-one (37,341) according to the 1990 federal decennial census;

(s) In any county bordering the Mississippi River on the west and with a population of less than thirty-one thousand (31,000), according to the 2000 federal decennial census, and with a county seat in which U.S. Highway 49 and U.S. Highway 61 intersect.

In any such county, however, the county superintendent of education may be a resident of a municipal separate school district or special municipal separate school district.

(3) The qualified electors residing within the municipal separate school districts shall not participate in the election of the county superintendent of education:

(a) In any county having a population of more than twenty-seven thousand (27,000) and less than twenty-eight thousand (28,000) and containing therein a municipality having a population in excess of three thousand (3,000), according to the 1960 federal decennial census;

(b) In any Class 1 county wherein is located a state-supported university and a National Guard camp, and in which Interstate Highway 59 and U.S. Highway 49 intersect;

(c) In any Class 4 county having two (2) judicial districts, wherein is partially located a national forest, and wherein Mississippi Highways 8 and 15 intersect;

(d) In any Class 2 county, the southern boundary of which partially borders on the State of Louisiana, traversed by U.S. Highway 98 which intersects Mississippi Highway 13, with a land area of five hundred fifty (550) square miles and having a population of twenty-three thousand two hundred ninety-three (23,293) in the 1960 federal decennial census;



(e) In any county bordering on the Gulf of Mexico or the Mississippi Sound having therein a test facility operated by the National Aeronautics and Space Administration;

(f) In any county having a population in excess of twenty-seven thousand one hundred seventy-nine (27,179) according to the 1970 federal decennial census, wherein U.S. Highways 45 and 72 intersect; and

(g) In any Class 1 county bordering on the Pearl River in which U.S. Highway 80 intersects Mississippi Highway 18 and having a population, according to the federal decennial census of 1970, of forty-three thousand nine hundred thirty-three (43,933).

(4) The county superintendent of education, with the approval of the county board of education by its first having adopted a resolution of approval and spread upon its minutes, shall be elected from the county at large, exclusive of the municipal separate school district boundaries:

(a) In any county bordering on the State of Tennessee having a land area of seven hundred ten (710) square miles, wherein is located part of a national forest, and wherein U.S. Highway 78 and Mississippi Highway 7 intersect;

(b) In any Class 4 county wherein is located the state's oldest state-supported university, in which Mississippi Highways 6 and 7 intersect. Provided, however, that if the method of selecting the county superintendent of education in such county is changed from an elective method to an appointive method, pursuant to the provisions of Section 37-5-68, this paragraph (b) shall stand repealed; and

(c) In any county having a population in excess of seventeen thousand (17,000) and less than eighteen thousand (18,000), according to the 1970 federal decennial census, wherein Mississippi Highways 6 and 9 intersect.

(5) In any county having a municipality of between forty-nine thousand (49,000) and fifty thousand (50,000) population according to the 1960 federal census, and adjoining the Alabama line, wherein U.S. Highways 80 and 45 intersect, the qualified electors residing within any municipal separate school district shall not participate in the election of the county superintendent of education, and such county superintendent of education shall not be a resident of a municipal separate school district.

(6) In any county traversed by the Natchez Trace Parkway wherein U.S. Highway 45 and Mississippi Highway 4 intersect and having a population of seventeen thousand nine hundred forty-nine (17,949) according to the 1960 federal census, the qualified electors residing within any municipal separate school district shall not participate in the election of the county superintendent of education, and such county superintendent of education shall not be a resident of a municipal separate school district.

**[Effective from and after the date Laws of 2012, ch. 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) The county superintendents of education shall be elected in the manner prescribed by the provisions of this chapter, unless the school district

is being reconstituted as provided in Section 37-17-13 or unless such office be made appointive as provided in this chapter, in which case the county superintendent shall be appointed by the county board of education or by the trustees of a separate school district embracing an entire county with a population of fifteen thousand (15,000) or less, as provided in subsection (2) of Section 37-7-203. In all cases he shall have such qualifications as prescribed by Section 37-9-13 and receive such compensation as established under Section 37-9-37.

(2) All qualified electors residing within any municipal separate or special municipal separate school district shall not vote in the election for the county superintendent of education:

(a) In all counties of the second class which have a population, according to the 1960 federal decennial census of at least thirty-three thousand (33,000) and less than thirty-four thousand (34,000), and having a city located therein which is the Southern Division of the A.T. S.F. Railroad Company;

(b) In all counties of the fourth class which have a population, according to the 1960 federal decennial census, in excess of twenty-six thousand (26,000) and less than twenty-seven thousand (27,000), and having located therein the Mississippi State University of Agriculture and Applied Science;

(c) In all counties of the first class which have a population, according to the 1960 federal decennial census, in excess of forty-six thousand (46,000) and less than forty-seven thousand (47,000), and having located therein the Mississippi University for Women;

(d) In any county bordering on the Mississippi Sound and having a population in excess of one hundred thousand (100,000), according to the 1960 federal decennial census, and having an assessed valuation in excess of Seventy Million Dollars (\$70,000,000.00);

(e) In any county having a population in excess of eight thousand (8,000) and less than nine thousand (9,000), and having an assessed valuation in excess of Five Million Dollars (\$5,000,000.00) but less than Six Million Dollars (\$6,000,000.00) in 1960;

(f) In any county having a population in excess of twenty-two thousand (22,000) and less than twenty-three thousand (23,000) in 1960, and having a total assessed valuation in excess of Thirteen Million Dollars (\$13,000,000.00) in 1960;

(g) In any county having a population in excess of fifty-nine thousand (59,000) but less than sixty thousand (60,000), according to the 1960 federal decennial census;

(h) In any county bordered on the east by the Alabama line and on the south by the Mississippi Sound;

(i) In any county where Mississippi Highway 35 crosses U.S. Highway 80 and whose population, according to the 1960 regular census, was between twenty-one thousand (21,000) and twenty-two thousand (22,000), and in which there are located four (4) or more chicken packing plants, one (1) zipper plant and one or more factories manufacturing Sunbeam electrical appliances;

(j) In any county having a population of twenty-six thousand one hundred ninety-eight (26,198) according to the 1970 census wherein Highways 51 and 84 intersect;

(k) In any county having a municipal separate school district lying therein, having a population in excess of twenty-one thousand (21,000) but less than twenty-one thousand five hundred (21,500), according to the 1960 decennial census, and having a combined assessed valuation in 1963 in excess of Sixteen Million Nine Hundred Thousand Dollars (\$16,900,000.00) but less than Seventeen Million Dollars (\$17,000,000.00) according to the State Tax Commission's compilation;

(l) In any county where Mississippi Highway 15 crosses Mississippi Highway 16, whose population was more than twenty thousand (20,000) and less than twenty-one thousand (21,000), according to the regular 1960 census, and within which there is located a Choctaw Indian reservation and school operated by the United States government;

(m) In any county where U.S. Highway 45W Alternate intersects Mississippi Highway 50, and having a population of eighteen thousand nine hundred thirty-three (18,933), according to the 1960 federal census;

(n) In any county having a population in excess of forty thousand five hundred (40,500), according to the 1960 federal decennial census, wherein U.S. Highways 78 and 45 intersect, and wherein there is a United States fish hatchery;

(o) In any county being traversed by Mississippi Highway 15 and U.S. Interstate Highway 20;

(p) In all counties wherein there is located a national military park and a national cemetery;

(q) In any county where U.S. Highway 82 crosses U.S. Interstate Highway 55 and having a population of twelve thousand three hundred eighty-seven (12,387) according to the 1990 federal decennial census;

(r) In any county where U.S. Highway 49E and U.S. Highway 82 intersect, and having a population of thirty-seven thousand three hundred forty-one (37,341) according to the 1990 federal decennial census;

(s) In any county bordering the Mississippi River on the west and with a population of less than thirty-one thousand (31,000), according to the 2000 federal decennial census, and with a county seat in which U.S. Highway 49 and U.S. Highway 61 intersect.

In any such county, however, the county superintendent of education may be a resident of a municipal separate school district or special municipal separate school district.

(3) The qualified electors residing within the municipal separate school districts shall not participate in the election of the county superintendent of education:

(a) In any county having a population of more than twenty-seven thousand (27,000) and less than twenty-eight thousand (28,000) and containing therein a municipality having a population in excess of three thousand (3,000), according to the 1960 federal decennial census;



(b) In any Class 1 county wherein is located a state-supported university and a National Guard camp, and in which Interstate Highway 59 and U.S. Highway 49 intersect;

(c) In any Class 4 county having two (2) judicial districts, wherein is partially located a national forest, and wherein Mississippi Highways 8 and 15 intersect;

(d) In any Class 2 county, the southern boundary of which partially borders on the State of Louisiana, traversed by U.S. Highway 98 which intersects Mississippi Highway 13, with a land area of five hundred fifty (550) square miles and having a population of twenty-three thousand two hundred ninety-three (23,293) in the 1960 federal decennial census;

(e) In any county bordering on the Gulf of Mexico or the Mississippi Sound having therein a test facility operated by the National Aeronautics and Space Administration;

(f) In any county having a population in excess of twenty-seven thousand one hundred seventy-nine (27,179) according to the 1970 federal decennial census, wherein U.S. Highways 45 and 72 intersect; and

(g) In any Class 1 county bordering on the Pearl River in which U.S. Highway 80 intersects Mississippi Highway 18 and having a population, according to the federal decennial census of 1970, of forty-three thousand nine hundred thirty-three (43,933).

(4) The county superintendent of education, with the approval of the county board of education by its first having adopted a resolution of approval and spread upon its minutes, shall be elected from the county at large, exclusive of the municipal separate school district boundaries:

(a) In any county bordering on the State of Tennessee having a land area of seven hundred ten (710) square miles, wherein is located part of a national forest, and wherein U.S. Highway 78 and Mississippi Highway 7 intersect;

(b) In any Class 4 county wherein is located the state's oldest state-supported university, in which Mississippi Highways 6 and 7 intersect. Provided, however, that if the method of selecting the county superintendent of education in such county is changed from an elective method to an appointive method, pursuant to the provisions of Section 37-5-68, this paragraph (b) shall stand repealed; and

(c) In any county having a population in excess of seventeen thousand (17,000) and less than eighteen thousand (18,000), according to the 1970 federal decennial census, wherein Mississippi Highways 6 and 9 intersect.

(5) In any county having a municipality of between forty-nine thousand (49,000) and fifty thousand (50,000) population according to the 1960 federal census, and adjoining the Alabama line, wherein U.S. Highways 80 and 45 intersect, the qualified electors residing within any municipal separate school district shall not participate in the election of the county superintendent of education, and such county superintendent of education shall not be a resident of a municipal separate school district.

(6) In any county traversed by the Natchez Trace Parkway wherein U.S. Highway 45 and Mississippi Highway 4 intersect and having a population of

seventeen thousand nine hundred forty-nine (17,949) according to the 1960 federal census, the qualified electors residing within any municipal separate school district shall not participate in the election of the county superintendent of education, and such county superintendent of education shall not be a resident of a municipal separate school district.

**SOURCES:** Laws, 1978, ch. 412, § 1; Laws, 1980, ch. 398, § 1; Laws, 1981, ch. 317, § 1; Laws, 1992, ch. 396 § 2; Laws, 2000, ch. 506, § 1; Laws, 2006, ch. 552, § 1; Laws, 2009, ch. 431, § 2, eff. Aug. 10, 2009 (the date the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, to the amendment of this section); Laws, 2012, ch. 525, § 3, eff. \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — On August 10, 2009, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Laws of 2009, ch. 431.

Laws of 2012, ch. 525, §§ 4 and 5 provide:

“SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2009 amendment added the last sentence in (4)(b).

The 2012 amendment inserted “unless the school district is being reconstituted as provided in Section 37-17-13” in the first sentence of (1).

## ATTORNEY GENERAL OPINIONS

Move by the superintendent of education for a county school district within city limits would not disqualify him as the county superintendent. Burrell, Oct. 27, 2006, A.G. Op. 06-0535.

A qualified elector of Alcorn County who resides within a municipal separate

school district is not eligible to be a candidate for Alcorn County Superintendent of Education, as described in Miss. Code Ann. § 37-5-71(3)(f). Follin-King, February 9, 2007, A.G. Op. #07-00058, 2007 Miss. AG LEXIS 13.

## CHAPTER 6

### Mississippi Uniform School Law

SEC.

- |          |                                                                            |
|----------|----------------------------------------------------------------------------|
| 37-6-13. | Per diem allowance; expenses and mileage; meeting attendance requirements. |
| 37-6-15. | Surety bond for school board member; premiums.                             |

**§ 37-6-9. President and secretary of school board; quorum; minutes; voting or abstaining on questions.**

**JUDICIAL DECISIONS**

**3. Recording final actions.**

Because a decision to refuse a worker a hearing was a “final action,” a school board should have recorded that decision in the minutes; however, the failure to record the decision was harmless error. No prejudice was shown as a result of the

error; the worker failed to show how her appellate rights were hampered in a case where her employment contract was not renewed. *Hodgins v. Phila. Pub. Sch. Dist.*, 966 So. 2d 1279 (Miss. Ct. App. 2007).

**ATTORNEY GENERAL OPINIONS**

Members of the school board are required by statute to either vote or abstain; a vote of “present” should counted as an

abstention. Smith, Aug. 4, 2006, A.G. Op. 06-0311.

**§ 37-6-13. Per diem allowance; expenses and mileage; meeting attendance requirements.**

(1) Each person serving as a member of the school board of any school district shall receive per diem in the amount of Sixty-seven Dollars (\$67.00) for no more than thirty-six (36) meetings of the school board during any one (1) fiscal year or, in his or her discretion, irrevocably may choose to receive as compensation for his or her services an annual salary in the amount of Two Thousand Four Hundred Dollars (\$2,400.00), which choice shall remain in force for all successive terms or periods of service of that member. The receipt of the compensation shall not entitle any member of a school board to receive or be eligible for any state employee group insurance, retirement or other fringe benefits. Each member shall be reimbursed for the necessary expenses and mileage in attending meetings of the school board. In addition to the foregoing, all members may be reimbursed for mileage and actual expenses incurred in the further performance of their duties, including attendance at any mandatory school board training session or at regional and national education meetings, when such mileage and other expenses are authorized by the board prior to the date on which they occur. Detailed vouchers shall be submitted for reimbursement for all expenses authorized by this section. Such reimbursement shall be in accordance with Section 25-3-41.

Such expenses shall be paid on order of the school board by pay certificates issued by the superintendent of the school district involved against the funds available for payment of the administrative expense of the district.

(2)(a) If a member of a school board misses twenty percent (20%) or more of the meetings of the school board during a calendar year, except for absences caused by required military duty, the member must reimburse the school district that portion of the total salary paid to the member that year which is proportionate to the number of meetings missed by the member in



relation to the total number of school board meetings held during that year. For purposes of this subsection, consideration may be given only to meetings of which public notice is required.

(b) Before February 1 of each year, the president of each local school board shall submit a report to the State Board of Education containing the names of any members of the school board who missed twenty percent (20%) or more of the school board meetings during the preceding calendar year.

**SOURCES:** Laws, 1986, ch. 492, § 7; Laws, 1993, ch. 422, § 1; Laws, 1996, ch. 387, § 1; Laws, 1996, ch. 550, § 1; Laws, 1997, ch. 553, § 1; Laws, 2002, ch. 470, § 1, eff July 2, 2002 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor’s Note** — This section has been set out to correct an error in the main volume. The last sentence of (1) has been set out as a separate paragraph.

**Cross References** — Reimbursement of and per diem payment to members of local management board of conversion charter school for expenses and mileage for attending required training in amount authorized by this section, see § 37-165-7.

**§ 37-6-15. Surety bond for school board member; premiums.**

(1) Before entering upon the discharge of the duties of his office, each member of the school board shall give a surety bond in the penal sum of Fifty Thousand Dollars (\$50,000.00), with sufficient surety, to be payable, conditioned and approved in the manner provided by law.

(2) The school board may execute a blanket surety bond for each school district official and employee (including school business managers and any other employee who receipts and/or disburses school district funds) in the penalty of Fifty Thousand Dollars (\$50,000.00), unless a different penalty is prescribed by statute, to be payable, conditioned and approved in the manner provided by law. The premium on said bond shall be paid out of the school district maintenance fund.

**SOURCES:** Laws, 1986, ch. 492, § 8; Laws, 1996, ch. 302, § 7; Laws, 2009, ch. 467, § 14, eff from and after July 1, 2009.

**Amendment Notes** — The 2009 amendment inserted “including school business managers and any other employee who” following “official and employee” in the first sentence of (2).

**CHAPTER 7**

**School Districts; Boards of Trustees of School Districts**

|             |                                                                  |          |
|-------------|------------------------------------------------------------------|----------|
| Article 3.  | Abolition, Alteration and Creation of Districts .....            | 37-7-101 |
| Article 5.  | Boards of Trustees; Qualifications, Selection and Meetings ..... | 37-7-201 |
| Article 7.  | Boards of Trustees; General Powers and Duties .....              | 37-7-301 |
| Article 9.  | Acquisition and Disposition of District Property .....           | 37-7-401 |
| Article 13. | Special Municipal Separate School Districts .....                | 37-7-701 |

|             |                                                |           |
|-------------|------------------------------------------------|-----------|
| Article 19. | Commission on School District Efficiency ..... | 37-7-1001 |
|-------------|------------------------------------------------|-----------|

## ARTICLE 3.

## ABOLITION, ALTERATION AND CREATION OF DISTRICTS.

## SEC.

- 37-7-103. Abolition, reorganization or alteration of district by school board.
- 37-7-104. Consolidation of certain county school districts under conservatorship into one countywide district under certain circumstances; procedure [For effective date, see Editor's note].
- 37-7-104.1. Administrative consolidation of all school districts in Bolivar County, Mississippi, into three school districts; procedure [Effective from and after the date Laws of 2012, ch. 551, is effectuated under Section 5 of the Voting Rights Act, as amended and extended].

### § 37-7-103. Abolition, reorganization or alteration of district by school board.

[For 2012 amendments to this section, see Editor's note.]

From and after July 1, 1987, the school board of any school district shall have full jurisdiction, power and authority, at any regular meeting thereof or at any special meeting called for that purpose, to abolish such existing district, or to reorganize, change or alter the boundaries of any such district. In addition thereto, with the consent of the school board of the school district involved, the school board may add to such school district any part of the school district adjoining same, and with the consent of the school board of the school district involved, may detach territory from such school district and annex same to an adjoining district.

**SOURCES:** Codes, 1942, § 6274-06; Laws, 1953, Ex Sess, ch. 16, § 6; Laws, 1986, ch. 492, § 52; (See Editor's note.)

**Editor's Note —** This section was amended by § 2 of Chapter 441, Laws of 2012, and by § 2 of Chapter 551, Laws of 2012. Both acts require preclearance under Section 5 of the Voting Rights Act of 1965, as amended and extended. As of August 27, 2012, neither act has received preclearance. As a result, the section, as set out above, does not reflect the amendments by either act. The section will be updated to reflect the language of the controlling act when preclearance is received.

If Chapter 441 is precleared on the later date, criteria for merger will not be met and it will control pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date. If Chapter 441 controls, Section 37-7-103, as amended by § 2 of the act and effective upon the date it is precleared, will read as follows:

From and after July 1, 1987, the school board of any school district shall have full jurisdiction, power and authority, at any regular meeting thereof or at any special meeting called for that purpose, to abolish such existing district, or to reorganize, change or alter the boundaries of any such district. In addition thereto, with the consent of the school board of the school district involved, the school board may add to such school district any part of the school district adjoining same, and with the consent of the

school board of the school district involved, may detach territory from such school district and annex same to an adjoining district. Provided, however, that the consent of the school board of the school districts involved in implementing the provisions of Section 37-7-104, Mississippi Code of 1972, shall not be required for the administrative consolidation of such school districts pursuant to the order of the State Board of Education.

If Chapter 551 is precleared on the later date, it will control, pursuant to Section 1-3-79, and it contains the language in Chapter 441. If Chapter 551 controls, Section 37-7-103, as amended by § 2 of the act and effective upon the date it is precleared, will read as follows:

From and after July 1, 1987, the school board of any school district shall have full jurisdiction, power and authority, at any regular meeting thereof or at any special meeting called for that purpose, to abolish such existing district, or to reorganize, change or alter the boundaries of any such district. In addition thereto, with the consent of the school board of the school district involved, the school board may add to such school district any part of the school district adjoining same, and with the consent of the school board of the school district involved, may detach territory from such school district and annex same to an adjoining district. Provided, however, that the consent of the school board of the school districts involved in implementing the provisions of Section 37-7-104, 37-7-104.1, or Section 37-27-79, Mississippi Code of 1972, shall not be required for the administrative consolidation of such school districts pursuant to the order of the State Board of Education.

Laws of 2012, ch. 441, §§ 3 and 4 provide:

“SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 4. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

Laws of 2012, ch. 551, §§ 4 and 5 provide:

“SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The first 2012 amendment (ch. 441), added the last sentence. For effective date, see Editor’s note.

The second 2012 amendment (ch. 551), added the last sentence.

### **§ 37-7-104. Consolidation of certain county school districts under conservatorship into one countywide district under certain circumstances; procedure [For effective date, see Editor’s note].**

(1) In any Mississippi county in which are located, as of February 8, 2012, three (3) school districts and only three (3) school districts, all of which are under conservatorship as defined by the Mississippi Department of Education as of February 8, 2012, there shall be an administrative consolidation of all of the school districts in the county into one (1) countywide school district with one (1) county board of education. The State Board of Education shall



determine the school district(s) applicable to the provisions of this section and spread this finding on the minutes of its August 2012 meeting. On or before September 1, 2012, the State Board of Education shall serve the local school boards applicable to the provisions of this section, or the Mississippi Department of Education Conservator for each of the three (3) school districts, with notice and instruction regarding the action to be taken to comply with this section. In such county, there shall be a new county board of education elected in a November 2013 special election which shall be called for that purpose and the new county board members shall be elected as provided in Section 37-5-7, Mississippi Code of 1972. No previous board member shall be eligible to serve on the newly elected board. Provided, however, that it shall be the responsibility of the board of supervisors of such county to apportion the countywide school district into five (5) new single member board of education districts which shall be consistent with the supervisors district lines in said county. The board of supervisors of said county shall thereafter publish the same in some newspaper of general circulation within said county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the board of supervisors of said county, said new district lines will thereafter be effective for the November 2013 special election. If necessary, the county board of education of said county shall reapportion the board of education districts in accordance with applicable law as soon as practicable after the results of the 2020 decennial census are published and as soon as practicable after every decennial census thereafter. The new county board of education, with the written approval of the Mississippi Department of Education Conservator and the State Board of Education, shall provide for the administrative consolidation of all school districts in the county into one (1) countywide school district on or before July 1 next following the November 2013 election. The new county board of education shall serve as the school board for the county. Any school district affected by the required administrative consolidation that does not voluntarily consolidate with the new school district ordered by the county board of education shall be administratively consolidated by the State Board of Education with the countywide school district, to be effective on July 1 following the election of the new county board of education. The State Board of Education shall promptly move on its own motion to administratively consolidate any school district which does not voluntarily consolidate in order to enable the affected school districts to reasonably accomplish the resulting administrative consolidation into one (1) countywide district by July 1 following the election of the new county board of education. All affected school districts shall comply with any consolidation order issued by the county board of education or the State Board of Education, as the case may be, on or before July 1 following the election of the new county board of education.

(2) On July 1 following the election of the new county board of education, the former county board of education and the former board of trustees of any municipal separate, or special municipal separate school district located in such county shall be abolished. All real and personal property which is owned

or titled in the name of a school district located in such county shall be transferred to the new reorganized school district of the county in which such school district is located. The Mississippi Department of Education Conservator and the State Board of Education shall be responsible for establishing the contracts for teachers and principals for the next school year following the required administrative consolidation with the consultation of the newly elected successor county board of education. The successor county board of education shall appoint the new county superintendent of education for the reorganized school district. The county superintendent of education of said reorganized school district shall not be elected but shall thereafter be appointed by the successor county board of education in the manner provided in Section 37-9-25. The superintendents of the former under-performing school districts located in the county shall not be eligible for appointment as the new superintendent. The selection of the appointed county superintendent of education and the assistant superintendent of education in the central administration office of the successor countywide school district shall be the responsibility of the successor county board of education with the approval of the Mississippi Department of Education Conservator and the State Board of Education. No such administratively consolidated school district shall have more than one (1) assistant superintendent of education. It shall be the responsibility of the successor county board of education, with approval of the Mississippi Department of Education Conservator and the State Board of Education, to prepare and approve the budget of the new reorganized districts, and the county board of education may use staff from the former school districts to prepare the budget. Any proposed order of the successor county board of education directing the transfer of the assets, real or personal property of an affected school district in the county, shall be submitted and approved by the State Board of Education. The finding of the State Board of Education shall be final and conclusive for the purposes of the transfer of property required by such administrative consolidation. Any person or school district aggrieved by an order of the successor county school board of education pursuant to the required administrative consolidation may appeal therefrom to the State Board of Education within ten (10) days from the date of the adjournment of the meeting at which such order is entered. Such appeal shall be de novo, and the finding of the State Board of Education upon such question shall be final and conclusive for the purpose of the approval or disapproval of the action by said county board of education.

(3) When any school district in such county is abolished under the provisions of this section, the abolition thereof shall not impair or release the property of such former school district from liability for the payment of the bonds or other indebtedness of such district and it shall be the duty of the board of supervisors of said county to levy taxes on the property of said district so abolished from year to year according to the terms of such indebtedness until same shall be fully paid.

(4) In the administratively consolidated countywide school district created under this section, the ad valorem tax rate shall be determined as set forth under Section 37-57-1 et seq.

(5) Nothing in this section shall be construed to require or restrict the closing of any school or school facility, unless such facility is an unneeded administrative office located within a school district which has been abolished under the provisions of this section. All administrative consolidations under this section shall be accomplished so as not to delay or in any manner negatively affect the desegregation of another school district in the county pursuant to court order.

(6) The State Board of Education shall promulgate rules and regulations to facilitate the administrative consolidation of the school districts in a county pursuant to this section. When the orders of the successor county board of education adopting the boundaries of the successor countywide school district have been entered and are final, as approved by the State Board of Education, the new district lines shall be submitted by the State Board of Education with the assistance of the Attorney General to the Attorney General of the United States for preclearance or to the United States District Court for the District of Columbia for a declaratory judgment in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended. In the event the change in the school district lines are precleared or approved, the State Board of Education shall formally declare the new lines as the new boundaries of the consolidated countywide school district.

**SOURCES:** Laws, 2012, ch. 441, § 1, eff. \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

**Editor's Note** — Laws of 2012, ch. 441, §§ 3 and 4 provide:

“SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 4. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Cross References** — Consent of school board of school districts involved in implementing the provisions of this section, § 37-7-104.1 or 37-27-79, not required for the administrative consolidation of the school districts pursuant to order of State Board of Education, see § 37-7-103.

**§ 37-7-104.1. Administrative consolidation of all school districts in Bolivar County, Mississippi, into three school districts; procedure [Effective from and after the date Laws of 2012, ch. 551, is effectuated under Section 5 of the Voting Rights Act, as amended and extended].**

(1) In Bolivar County, Mississippi, in which are located, as of January 1, 2012, six (6) school districts, there shall be an administrative consolidation of all of the school districts in the county into three (3) school districts as follows:

(a) One (1) existing school district which shall be the Cleveland Municipal Separate School District;



(b) One (1) new consolidated school district to be designated as North Bolivar Consolidated School District which shall consist of the territory of the former North Bolivar School District and the Mound Bayou Public School District. The central administrative office of the North Bolivar Consolidated School District shall be located in Mound Bayou, Mississippi; and

(c) One (1) new consolidated school district to be designated as West Bolivar Consolidated School District which shall consist of the territory of the former West Bolivar School District, Shaw School District and Benoit School District. The central administrative office of the West Bolivar Consolidated School District shall be located in Rosedale, Mississippi.

(2) On or before September 1, 2012, the State Board of Education shall serve the local school boards in Bolivar County with notice and instructions regarding the timetable for action to be taken to comply with the administrative consolidation required in this section. The State Board of Education shall provide for the administrative consolidation of all school districts in the county outside of the territory of Cleveland Municipal Separate School District into North Bolivar Consolidated School District and West Bolivar Consolidated School District on or before July 1, 2014. In each new consolidated school district there shall be a new consolidated school district board of trustees elected in a November 2013 special election which shall be called by the Governor for that purpose. The new consolidated school district boards of trustees shall be elected and the terms of office established as provided in Section 37-7-207, Mississippi Code of 1972. The State Board of Education shall determine the boundary lines for the territory of the two (2) new school districts and shall spread a legal description of the new school districts on the minutes of its August 2012 meeting and shall serve the applicable school boards and the board of supervisors with an adequate legal description of these new boundaries. It shall be the responsibility of the State Board of Education with the assistance of the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) to apportion the territory of the two (2) new school districts into five (5) new board of trustee election districts for each new school district. The State Board of Education shall thereafter publish the same in some newspaper of general circulation in said county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the school boards of each school district in the county, said new district lines will thereafter be effective for the November 2013 special election. Any school board member of the former school district residing in the proper election district shall be eligible for election to the new board of trustees for North Bolivar Consolidated School District or West Bolivar Consolidated School District. The local school board of each new school district shall reapportion the school board districts in accordance with the procedure described in Section 37-7-207, Mississippi Code of 1972, as is necessary as soon as practicable after the 2020 decennial census are published and as soon as practicable after every decennial census thereafter. Any school district affected by the required administrative consolidation

in such county that does not voluntarily consolidate with the two (2) new school districts ordered by the State Board of Education shall be administratively consolidated by the State Board of Education with the appropriate school district in which such district is located, to be effective on July 1 following the election of the new local school boards. The State Board of Education shall promptly move on its own motion to administratively consolidate a school district which does not voluntarily consolidate in order to enable the affected school districts to reasonably accomplish the resulting administrative consolidation into two (2) school districts by July 1 following the election of the new school boards. All affected school districts shall comply with any consolidation order issued by the State Board of Education on or before July 1 following the election of the new school boards.

(3) On July 1 following the election of the new school district boards of trustees in Bolivar County, the former county board of education and the former board of trustees of North Bolivar School District, Mound Bayou Public School District, West Bolivar School District, Shaw School District and Benoit School District shall be abolished. All real and personal property which is owned or titled in the name of a school district located in such former school district shall be transferred to the new reorganized school district of Bolivar County in which such former school district is located. Each former school board shall be responsible for establishing the contracts for teachers and principals for the next school year following the required administrative consolidation with the consultation of the newly elected successor school boards. The new Board of Trustees for the North Bolivar Consolidated School District shall appoint the Superintendent of Schools for said school district, and the Board of Trustees for the West Bolivar Consolidated School District shall appoint the Superintendent of Schools for said school district. The subsequent superintendent of schools of said reorganized school districts shall not be elected but shall thereafter be appointed by the successor boards of trustees in the manner provided in Section 37-9-25. Any superintendent serving in the former school districts shall be eligible for appointment as a superintendent in North Bolivar Consolidated School District or West Bolivar Consolidated School District. North Bolivar Consolidated School District and West Bolivar Consolidated School District shall not have more than one (1) assistant superintendent. It shall be the responsibility of the successor boards of trustees to prepare and approve the budget of the respective new reorganized districts, and the successor boards of trustees may use staff from the former school districts to prepare the budget. Any proposed order of the State Board of Education directing the transfer of the assets, real or personal property of an affected school district in the county, shall be final and conclusive for the purposes of the transfer of property required by such administrative consolidation. Any person or school district aggrieved by an order of the successor newly elected board of trustees of a consolidated school district pursuant to the required administrative consolidation may appeal therefrom to the State Board of Education within ten (10) days from the date of the adjournment of the meeting at which such order is entered. Such appeal

shall be de novo, and the finding of the State Board of Education upon such question shall be final and conclusive for the purpose of the approval or disapproval of the action by said county board of education.

(4) When any school district in such county is abolished under the provisions of this section, the abolition thereof shall not impair or release the property of such former school district from liability for the payment of the bonds or other indebtedness of such district.

(5) Nothing in this section shall be construed to require the closing of any school or school facility, unless such facility is an unneeded administrative office located within a school district which has been abolished under the provisions of this section. All administrative consolidations under this section shall be accomplished so as not to delay or in any manner negatively affect the desegregation of another school district in the county pursuant to court order.

(6) The State Board of Education shall promulgate rules and regulations to facilitate the administrative consolidation of the school districts in Bolivar County pursuant to this section. The consolidated districts shall make an election within one (1) year of consolidation concerning the group term life insurance described in subsection (7) of Section 25-15-9. When the orders of the State Board of Education adopting the boundaries of the successor school districts and the successor board of trustees election districts have been entered and are final, as directed by the State Board of Education, the new district lines shall be submitted by the State Board of Education with the assistance of the Attorney General to the Attorney General of the United States for preclearance or to the United States District Court for the District of Columbia for a declaratory judgment in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended. In the event the change in the school district lines and election districts are precleared or approved, the State Board of Education shall formally declare the new lines as the new boundaries of the successor school districts.

**SOURCES:** Laws, 2012, ch. 551, § 1, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

**Editor's Note** — Laws of 2012, ch. 551, §§ 4 and 5 provide:

“SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Cross References** — Consent of school board of school districts involved in implementing the provisions of this section, § 37-7-104 or 37-27-79, not required for the administrative consolidation of the school districts pursuant to order of State Board of Education, see § 37-7-103.



## ARTICLE 5.

## BOARDS OF TRUSTEES; QUALIFICATIONS, SELECTION AND MEETINGS.

SEC.

- 37-7-203. Composition of boards of trustees of municipal separate school districts and certain mayor-council forms of government; qualifications, selection, and terms of office of members of boards.
- 37-7-211. Filing of petition and affidavit by candidate for office of trustee.
- 37-7-215. Time of election and runoff election.
- 37-7-217. Conduct of election; certification of results; runoffs.
- 37-7-219. Preparation of list of qualified electors.
- 37-7-227. Election of consolidated or consolidated line school district trustees; ballot; determination of results; runoffs.

**§ 37-7-203. Composition of boards of trustees of municipal separate school districts and certain mayor-council forms of government; qualifications, selection, and terms of office of members of boards.**

[Until the date the provisions of Section 2, Chapter 470, Laws of 2009, that relate to a majority vote requirement and a runoff election are effectuated under the provisions of Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

(1) Except as otherwise provided in subsection (3) of this section, the boards of trustees of all municipal separate school districts created under this chapter, either with or without added territory, shall consist of five (5) members, each to be chosen for a term of five (5) years, but so chosen that the term of office of one (1) member shall expire each year. In the event the added territory of a municipal separate school district furnishes fifteen percent (15%) or more of the pupils enrolled in the schools of such district, then at least one (1) member of the board of trustees of such school district shall be a resident of the added territory outside the corporate limits. In the event the added territory of a municipal separate school district furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then not more than two (2) members of the board of trustees of such school district shall be residents of the added territory outside the corporate limits. In the event the added territory of a municipal separate school district in a county in which Mississippi Highways 8 and 15 intersect furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then the five (5) members of the board of trustees of such school district shall be elected at large from such school district for a term of five (5) years each except that the two (2) elected trustees presently serving on such board shall continue to serve for their respective terms of office. The three (3) appointed trustees presently serving on such board shall continue to serve until their successors are elected in March of 1975 in the manner provided for in Section 37-7-215. At such election, one (1) trustee shall be elected for a term of two (2) years, one (1) for

a term of three (3) years and one (1) for a term of five (5) years. Subsequent terms for each successor trustee shall be for five (5) years. In the event one (1) of two (2) municipal separate school districts located in any county with two (2) judicial districts, District 1 being comprised of Supervisors Districts 1, 2, 4 and 5, and District 2 being comprised of Supervisors District 3, with added territory embraces three (3) full supervisors districts of a county, one (1) trustee shall be elected from each of the three (3) supervisors districts outside the corporate limits of the municipality. In the further event that the territory of a municipal separate school district located in any county with two (2) judicial districts, District 1 being comprised of Supervisors Districts 1, 2, 4 and 5, and District 2 being comprised of Supervisors District 3, with added territory embraces four (4) full supervisors districts in the county, and in any county in which a municipal separate school district embraces the entire county in which Highways 14 and 15 intersect, one (1) trustee shall be elected from each supervisors district.

Except as otherwise provided herein, the trustees of such a municipal separate school district shall be elected by a majority of the governing authorities of the municipality at the first meeting of the governing authorities held in the month of February of each year, and the term of office of the member so elected shall commence on the first Saturday of March following. In the case of a member of the board of trustees who is required to come from the added territory outside the corporate limits as is above provided, such member of the board of trustees shall be elected by the qualified electors of the school district residing in such added territory outside the corporate limits at the same time and in the same manner as is otherwise provided in this article for the election of trustees of school districts other than municipal separate school districts.

In the event that a portion of a county school district is reconstituted, in the manner provided by law, into a municipal separate school district with added territory and in the event that the trustees to be elected from the added territory are requested to be elected from separate election districts within the added territory, instead of elected at large, by the Attorney General of the United States as a result of and pursuant to preclearance under Section 5 of the Voting Rights Act of 1965 as amended and extended, and in the event the added territory of a municipal separate school district of a municipality furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then two (2) members of the board of trustees shall be residents of the added territory outside the corporate limits of such municipality and shall be elected from special trustee election districts by the qualified electors thereof as herein provided. The board of trustees of the school district shall apportion the added territory into two (2) special trustee election districts as nearly as possible according to population and other factors heretofore pronounced by the courts. The board of trustees of the school district shall thereafter publish the same in a newspaper of general circulation within that school district for at least two (2) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of

trustees of the school district, the new district lines shall thereafter be effective. Any person elected from the new trustee election districts constituted herein shall be elected in the manner provided for in Section 37-7-215 for a term of five (5) years. Any vacancy in the office of a trustee elected from such trustee election district, whether occasioned by redistricting or by other cause, shall be filled by appointment of the governing authorities of the municipality, provided that the person so appointed shall serve only until the next general election following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner provided in Section 37-7-215.

In any county organizing a countywide municipal separate school district after January 1, 1965, the trustees thereof to be elected from outside the municipality, such trustees shall be elected by the board of supervisors of such county, and the superintendent of such school district shall have authority to pay out and distribute the funds of the district. In the event a municipal separate school district should occupy territory in a county other than that in which the municipality is located and fifteen percent (15%) or more of the pupils enrolled in the schools of such district shall come from the territory of the district in the county other than that in which the municipality is located, the territory of such county in which the municipality is not located shall be entitled to one (1) member on the board of trustees of such school district. The trustee shall be a resident of the territory of that part of the district lying in the county in which the municipality is not located and shall be elected by the qualified electors of the territory of such county at the same time and in the same manner as is provided for the election of trustees of school districts other than municipal separate school districts having territory in two (2) or more counties.

All vacancies shall be filled for the unexpired terms by appointment of the governing authorities of the municipality; except that in the case of the trustees coming from the added territory outside the corporate limits, the person so appointed shall serve only until the next general election following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner otherwise provided herein.

No person who is a member of such governing body, or who is an employee of the municipality, or who is a member of the county board of education, or who is a trustee of any public, private or sectarian school or college located in the county, inclusive of the municipal separate school district, or who is a teacher in or a trustee of the school district, shall be eligible for appointment to the board of trustees.

(2) In counties of less than fifteen thousand (15,000) people having a municipal separate school district with added territory which embraces all the territory of a county, one or more trustees of the school district shall be nominated from each supervisors district upon petition of fifty (50) qualified electors of that supervisors district, or twenty percent (20%) of the qualified electors of such district, whichever number shall be smaller. One (1) trustee must be elected from each supervisors district of the county. In such counties



embraced entirely by a municipal separate school district, there shall be no county board of education after the formation of such district, and the county superintendent of education shall act as superintendent of schools of the district and shall be appointed by the board of trustees of that district, and the provisions of subsection (1) of this section and the first paragraph of Section 37-7-211 shall not apply to such districts.

(3) In municipalities designated as having a mayor-council form of government under Chapter 8, Title 21, Mississippi Code of 1972, and having a population in excess of one hundred thousand (100,000) according to the 2000 decennial census, the boards of trustees of the municipal separate school district located in the municipality may, if authorized by ordinance of the municipal governing authority, consist of seven (7) members residing in each of the seven (7) wards in the municipality, to be appointed by the mayor and confirmed by the city council as follows: (a) each board member shall reside in the ward from which he is appointed; (b) members serving on March 31, 2010, shall continue to serve until a new term commences and new members shall be selected from wards not currently represented on the board; (c) one (1) of the two (2) additional appointments shall serve a term of five (5) years and one (1) for a term of four (4) years, with all subsequent appointments for a five-year term; and (d) each new appointment shall be made by the mayor and confirmed by the city council of the municipality at the first meeting of the governing authorities held in the month of June following March 31, 2010, and thereafter each year, and the term of office of each member so selected shall commence on the first Saturday of July following.

**[From and after the date the provisions of Section 2, Chapter 470, Laws of 2009, that relate to a majority vote requirement and a runoff election are effectuated under the provisions of Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]**

(1) Except as otherwise provided in subsection (3) of this section, the boards of trustees of all municipal separate school districts created under this chapter, either with or without added territory, shall consist of five (5) members, each to be chosen for a term of five (5) years, but so chosen that the term of office of one (1) member shall expire each year. In the event the added territory of a municipal separate school district furnishes fifteen percent (15%) or more of the pupils enrolled in the schools of such district, then at least one (1) member of the board of trustees of such school district shall be a resident of the added territory outside the corporate limits. In the event the added territory of a municipal separate school district furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then not more than two (2) members of the board of trustees of such school district shall be residents of the added territory outside the corporate limits. In the event the added territory of a municipal separate school district in a county in which Mississippi Highways 8 and 15 intersect furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then the five (5)

members of the board of trustees of such school district shall be elected at large from such school district for a term of five (5) years each except that the two (2) elected trustees presently serving on such board shall continue to serve for their respective terms of office. The three (3) appointed trustees presently serving on such board shall continue to serve until their successors are elected in March of 1975 in the manner provided for in Section 37-7-215. At such election, one (1) trustee shall be elected for a term of two (2) years, one (1) for a term of three (3) years and one (1) for a term of five (5) years. Subsequent terms for each successor trustee shall be for five (5) years. In the event one (1) of two (2) municipal separate school districts located in any county with two (2) judicial districts, District 1 being comprised of Supervisors Districts 1, 2, 4 and 5, and District 2 being comprised of Supervisors District 3, with added territory embraces three (3) full supervisors districts of a county, one (1) trustee shall be elected from each of the three (3) supervisors districts outside the corporate limits of the municipality. In the further event that the territory of a municipal separate school district located in any county with two (2) judicial districts, District 1 being comprised of Supervisors Districts 1, 2, 4 and 5, and District 2 being comprised of Supervisors District 3, with added territory embraces four (4) full supervisors districts in the county, and in any county in which a municipal separate school district embraces the entire county in which Highways 14 and 15 intersect, one (1) trustee shall be elected from each supervisors district.

Except as otherwise provided herein, the trustees of such a municipal separate school district shall be elected by a majority of the governing authorities of the municipality at the first meeting of the governing authorities held in the month of February of each year, and the term of office of the member so elected shall commence on the first Saturday of March following. In the case of a member of the board of trustees who is required to come from the added territory outside the corporate limits as is above provided, such member of the board of trustees shall be elected by the qualified electors of the school district residing in such added territory outside the corporate limits at the same time and in the same manner as is otherwise provided in this article for the election of trustees of school districts other than municipal separate school districts.

In the event that a portion of a county school district is reconstituted, in the manner provided by law, into a municipal separate school district with added territory and in the event that the trustees to be elected from the added territory are requested to be elected from separate election districts within the added territory, instead of elected at large, by the Attorney General of the United States as a result of and pursuant to preclearance under Section 5 of the Voting Rights Act of 1965 as amended and extended, and in the event the added territory of a municipal separate school district of a municipality furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then two (2) members of the board of trustees shall be residents of the added territory outside the corporate limits of such municipality and shall be elected from special trustee election districts by the qualified electors

thereof as herein provided. The board of trustees of the school district shall apportion the added territory into two (2) special trustee election districts as nearly as possible according to population and other factors heretofore pronounced by the courts. The board of trustees of the school district shall thereafter publish the same in a newspaper of general circulation within that school district for at least two (2) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees of the school district, the new district lines shall thereafter be effective. Any person elected from the new trustee election districts constituted herein shall be elected in the manner provided for in Section 37-7-215 for a term of five (5) years. Any vacancy in the office of a trustee elected from such trustee election district, whether occasioned by redistricting or by other cause, shall be filled by appointment of the governing authorities of the municipality, provided that the person so appointed shall serve only until the next general election following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner provided in Section 37-7-215.

In any county organizing a countywide municipal separate school district after January 1, 1965, the trustees thereof to be elected from outside the municipality, such trustees shall be elected by the board of supervisors of such county, and the superintendent of such school district shall have authority to pay out and distribute the funds of the district. In the event a municipal separate school district should occupy territory in a county other than that in which the municipality is located and fifteen percent (15%) or more of the pupils enrolled in the schools of such district shall come from the territory of the district in the county other than that in which the municipality is located, the territory of such county in which the municipality is not located shall be entitled to one (1) member on the board of trustees of such school district. The trustee shall be a resident of the territory of that part of the district lying in the county in which the municipality is not located and shall be elected by the qualified electors of the territory of such county at the same time and in the same manner as is provided for the election of trustees of school districts other than municipal separate school districts having territory in two (2) or more counties.

All vacancies shall be filled for the unexpired terms by appointment of the governing authorities of the municipality; except that in the case of the trustees coming from the added territory outside the corporate limits, the person so appointed shall serve only until the next general election following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner otherwise provided herein.

No person who is a member of such governing body, or who is an employee of the municipality, or who is a member of the county board of education, or who is a trustee of any public, private or sectarian school or college located in the county, inclusive of the municipal separate school district, or who is a teacher in or a trustee of the school district, shall be eligible for appointment to the board of trustees.



(2) In counties of less than fifteen thousand (15,000) people having a municipal separate school district with added territory which embraces all the territory of a county, one or more trustees of the school district shall be nominated from each supervisors district upon petition of fifty (50) qualified electors of that supervisors district, or twenty percent (20%) of the qualified electors of such district, whichever number shall be smaller. One (1) trustee must be elected from each supervisors district of the county. The person nominated in each supervisors district who receives a majority of the votes cast in the school district for the office of trustee from that supervisors district must be declared elected. If no person in a supervisors district receives a majority of the votes cast, then the two (2) persons residing in that supervisors district who receive the highest number of votes cast in the school district for the office of trustee from that supervisors district shall have their names submitted as candidates in a runoff election three (3) weeks after the date of the election, and the person who receives a majority of the votes cast in the runoff election must be declared elected. In such counties embraced entirely by a municipal separate school district, there shall be no county board of education after the formation of such district, and the county superintendent of education shall act as superintendent of schools of the district and shall be appointed by the board of trustees of that district, and the provisions of subsection (1) of this section and the first paragraph of Section 37-7-211 shall not apply to such districts.

(3) In municipalities designated as having a mayor-council form of government under Chapter 8, Title 21, Mississippi Code of 1972, and having a population in excess of one hundred thousand (100,000) according to the 2000 decennial census, the boards of trustees of the municipal separate school district located in the municipality may, if authorized by ordinance of the municipal governing authority, consist of seven (7) members residing in each of the seven (7) wards in the municipality, to be appointed by the mayor and confirmed by the city council as follows: (a) each board member shall reside in the ward from which he is appointed; (b) members serving on March 31, 2010, shall continue to serve until a new term commences and new members shall be selected from wards not currently represented on the board; (c) one (1) of the two (2) additional appointments shall serve a term of five (5) years and one (1) for a term of four (4) years, with all subsequent appointments for a five-year term; and (d) each new appointment shall be made by the mayor and confirmed by the city council of the municipality at the first meeting of the governing authorities held in the month of June following March 31, 2010, and thereafter each year, and the term of office of each member so selected shall commence on the first Saturday of July following.

**SOURCES:** Codes, 1942, §§ 6238-07, 6328-21; Laws, 1953, Ex Sess, ch. 12, § 7; ch. 17, § 1; Laws, 1956, ch. 273; Laws, 1964, ch. 391, § 1; Laws, 1966, ch. 409, § 1; Laws, 1966, ch. 410, § 1; Laws, 1968, ch. 400; Laws, 1975, ch. 306; Laws, 1985, ch. 509, § 1; Laws, 2002, ch. 598, § 3; Laws, 2009, ch. 470, § 2; Laws, 2010, ch. 454, § 1, eff from and after passage (approved Mar. 31, 2010.)

**Editor's Note** — Laws of 2009, ch. 470, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or July 1, 2009, whichever is later.”

By letter dated August 28, 2009, the United States Attorney General interposed no objection to the change in the general election date provided for in ch. 470, Laws of 2009, and both versions of this section now reflect that change, effective August 28, 2009.

As for the proposed changes from a plurality vote to a majority vote requirement for county school board members, for trustees for certain municipal separate school districts and for trustees for special municipal school districts, and the requirement that a runoff election be held three weeks after the election if no candidate received a majority, the U.S. Attorney General requested additional information from the state. After review of the information provided by the state, the U.S. Attorney General concluded that the state had not met its burden of showing that the proposed changes had neither a discriminatory purpose nor a discriminatory effect, and by letter dated March 24, 2010, objected to the proposed change from plurality to majority vote and the runoff requirement provided for in Chapter 470, Laws of 2009.

**Amendment Notes** — The 2009 amendment, in (1), deleted “the provisions of Article 1 of” preceding “this chapter” in the first sentence of the first paragraph, and substituted “next general election” for “first Saturday of March” in the last sentence of the third and fifth paragraphs; rewrote (2); and made minor stylistic changes throughout.

The 2010 amendment added the exception in (1); and added (3).

### ATTORNEY GENERAL OPINIONS

A candidate for Trustee of a Municipal Separate School District must meet all of the mandatory statutory requirements in order to qualify, including a properly notarized affidavit filed by 5:00 p.m. on the qualifying deadline, as required by Miss. Code Ann. § 37-7-211. If only one person

properly qualifies for the office, no election or notice of election is necessary and the person properly qualified shall, if otherwise qualified, be declared elected without opposition. Gregory, February 1, 2007, A.G. Op. #07-00057, 2007 Miss. AG LEXIS 4.

### § 37-7-211. Filing of petition and affidavit by candidate for office of trustee.

[Effective until the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]

Any person otherwise eligible under the provisions of subsection (1) of Section 37-7-203 who shall desire to be a candidate for the office of trustee must qualify in the following manner in order to be allowed to be considered for election. By 5:00 p.m. at least forty (40) days before the election he shall file with the office of the superintendent of the municipal separate school district, or the special municipal separate school district, as the case may be, a petition signed by not less than twenty-five (25) qualified electors of the area repre-

sented by the office which he seeks, either for a full term or an unexpired term, as the case may be, and an affidavit by the candidate offering for election stating his qualifications under the terms of said sections. The petition shall contain an affidavit certifying that all signatures are the personal signatures of each person whose name appears on the petition and that each person is a qualified elector.

Unless the petition and affidavit required above shall be filed by 5:00 p.m. not less than forty (40) days prior to the election, the name of the candidate shall not be considered in the election, and votes cast for any person who has failed to qualify shall not be counted in the election.

If after the time for candidates to file the petition and affidavit provided for herein there should be only one (1) person to qualify for the office of trustee, then no election or notice of election shall be necessary and such person shall, if otherwise qualified, be declared elected without opposition.

**[Effective from and after the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) The name of any qualified elector who is otherwise eligible under the provisions of subsection (1) of Section 37-7-203 who shall desire to be a candidate for the office of trustee must qualify in the following manner in order to be allowed to be considered for election. By 5:00 p.m. at least sixty (60) days before the election he shall file with the county election commissioners, a petition signed by not less than twenty-five (25) qualified electors of the area represented by the office which he seeks, either for a full term or an unexpired term, as the case may be, and an affidavit by the candidate offering for election stating his qualifications under the terms of the section. The petition shall contain an affidavit certifying that all signatures are the personal signatures of each person whose name appears on the petition and that each person is a qualified elector.

(2) Unless the petition and affidavit required in subsection (1) of this section is filed by 5:00 p.m. not less than sixty (60) days prior to the election, the name of the candidate shall not be considered in the election, and votes cast for any person who has failed to qualify shall not be counted in the election.

(3) If after the time for candidates to file the petition and affidavit provided for in this section there should be only one (1) person to qualify for the office of trustee, then no election or notice of election shall be necessary and such person shall, if otherwise qualified, be declared elected without opposition.

**SOURCES:** Codes, 1942, § 6328-09; Laws, 1953, Ex Sess, ch. 12, § 9; Laws, 1962, ch. 348; Laws, 1966, ch. 411, § 1; Laws, 1966, ch. 412, § 1; Laws, 1977, ch. 425, § 1; Laws, 1981, ch. 409, § 3; Laws, 1982, ch. 356, § 1; Laws, 2000, ch. 592, § 17; Laws, 2012, ch. 516, § 1, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2012, ch. 516, §§ 6 and 7 provide:



“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2012 amendment added the subsection designations; rewrote the first sentence in (1); in (2), substituted “petition and affidavit required in subsection (1) of this section is filed” for “petition and affidavit required above shall be filed” and “sixty (60) days” for “forty (40) days”; and made a minor stylistic change.

### ATTORNEY GENERAL OPINIONS

A candidate for Trustee of a Municipal Separate School District must meet all of the mandatory statutory requirements in order to qualify, including a properly notarized affidavit filed by 5:00 p.m. on the qualifying deadline, as required by Miss. Code Ann. § 37-7-211. If only one person

properly qualifies for the office, no election or notice of election is necessary and the person properly qualified shall, if otherwise qualified, be declared elected without opposition. Gregory, February 1, 2007, A.G. Op. #07-00057, 2007 Miss. AG LEXIS 4.

### § 37-7-213. Notice of election [Repealed from and after the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act, as amended and extended.]

**Editor's Note** — Laws of 2012, ch. 516, §§ 5 through 7 provide:

“SECTION 5. Section 37-7-213, Mississippi Code of 1972, which provides for a notice of election for the board of trustees representing the added territory of certain municipal separate school districts to be posted, published and announced in a certain manner, is repealed.

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

### § 37-7-215. Time of election and runoff election.

[Effective until the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]

(1) The following election procedure shall be used in each school district in which there are less than three thousand five hundred (3,500) qualified electors:

All such elections shall be held on the first Saturday of March of each year, and in such election the polls shall be opened at 2 p.m. and closed at 5 p.m. for the first ballot. In the event a runoff be necessary such runoff shall be held two (2) weeks thereafter. All such elections shall be held at the schoolhouse of such school district; if there be in such school district an elementary school building

and a high school building at different locations, then the election shall be held at the high school building. In the event there are located in such district separate buildings at which such election may be held under the provisions of this section, then the board of trustees of such school district shall, by an order spread upon its minutes, designate the school building at which such election shall be held, which said order shall be adopted not less than thirty (30) days prior to such election.

(2) The following election procedure shall be used in each school district in which there are three thousand five hundred (3,500) qualified electors or more:

All such elections shall be held on the first Saturday of March of each year, at such time and place as determined by the board of trustees, and in such elections the polls shall be opened for not less than three (3) hours for the first ballot. In the event a runoff be necessary, such runoff shall be held two (2) weeks thereafter. All such elections shall be held at a convenient place. The board of trustees of such school district shall, by an order spread upon its minutes, designate the time and place or places at which such election shall be held, which order shall be adopted not less than thirty (30) days prior to such election.

**[Effective from and after the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

All such elections shall be held on the first Tuesday after the first Monday in November of each year and in the same manner as general state and county elections are held and conducted. In the event a runoff is necessary the runoff shall be held three (3) weeks thereafter.

**SOURCES:** Codes, 1942, § 6328-09; Laws, 1953, Ex Sess, ch. 12, § 9; Laws, 1962, ch. 348; Laws, 1966, ch. 411, § 1; Laws, 1966, ch. 412, § 1; Laws, 1978, ch. 469, § 1; Laws, 2009, ch. 470, § 4; Laws, 2012, ch. 516, § 2, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2009, ch. 470, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or July 1, 2009, whichever is later.”

By letter dated August 28, 2009, the United States Attorney General interposed no objection to the change in the general election date provided for in Chapter 470, Laws of 2009. As for the proposed changes from a plurality vote to a majority vote requirement for county school board members, for trustees for certain municipal separate school districts and for trustees for special municipal school districts, and the requirement that a runoff election be held three weeks after the election if no candidate received a majority, the U.S. Attorney General requested additional information from

the state. After review of the information provided by the state, the U.S. Attorney General concluded that the state had not met its burden of showing that the proposed changes had neither a discriminatory purpose nor a discriminatory effect, and by letter dated March 24, 2010, objected to the proposed change from plurality to majority vote and the runoff requirement provided for in Chapter 470, Laws of 2009.

Laws of 2012, ch. 516, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2009 amendment purported to rewrite the section. However, Section 4 of Chapter 470, Laws of 2009, did not receive preclearance under Section 5 of the Voting Rights Act, and the amendments to this section by that act were never given effect.

The 2012 amendment rewrote the section.

### ATTORNEY GENERAL OPINIONS

With regard to the election of trustees of municipal separate school districts with added territory, clarifying legislation or additional preclearance of the trustee election procedures proposed by Chapter 470, Laws of 2009 (HB 877) is required to give effect to the Chapter 470 amendments, and until such time as additional

language is precleared or clarifying legislation is enacted, trustee elections shall proceed as reflected in Sections 37-7-215 and 37-7-217 prior to the enactment of Chapter 470. Atkinson, December 18, 2009, A.G. Op. 09-00700, 2009 Miss. AG LEXIS 428

### § 37-7-217. Conduct of election; certification of results; run-offs.

[Effective until the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]

The qualified electors of each school district operating under Section 37-7-215(1) shall meet at 2 p.m. on the date and at the place specified therein, and the qualified electors of each school district operating under Section 37-7-215(2) shall meet on the date specified therein and at the time and place or places specified by the board of trustees of the school district and at such meeting the electors shall immediately organize by electing a chairman and a secretary of the meeting and shall thereupon proceed to elect the necessary number of trustees by secret written ballot from the list of candidates properly qualified. If there be an election for a full term and for an unexpired term or terms, such election shall be separately held and conducted. The person elected shall immediately assume the duties of his office for the full term if said election be for the full term, or for the remainder of the unexpired term if said election be for an unexpired term. The chairman and secretary of the meeting shall forthwith certify the results of the election to the superintendent of the municipal separate or special municipal separate school district, as the case



may be, which said certificate shall be delivered to such superintendent within five (5) days following said election. If a person shall not receive a majority of the votes cast upon the first ballot, a runoff shall be held between the two (2) persons receiving the highest number of votes upon such first ballot, which said runoff shall be held two (2) weeks thereafter. No trustees' election shall be discontinued or adjourned but same shall be completed upon the day specified therefor.

**[Effective from and after the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) The county election commissioners shall indicate on the ballot which of the persons whose names appear thereon are candidates for a full term, and which of such persons, if any, are candidates for an unexpired term or terms.

(2) The qualified electors of each school district operating under Section 37-7-215 shall vote on the date specified in that section and at the special trustee election districts.

(3) A person elected shall assume the duties of his office for the full term on the first day of January if the election is for the full term. A person elected to an unexpired term shall assume office immediately.

(4) The county election commissioners shall forthwith certify the results of the election to the superintendent of the municipal separate or special municipal separate school district, as the case may be, which certificate shall be delivered to such superintendent within five (5) days following the first election.

(5) If a person does not receive a majority of the votes cast at the election, a runoff shall be held between the two (2) persons receiving the highest number of votes at the first election.

**SOURCES:** Codes, 1942, § 6328-09; Laws, 1953, Ex Sess, ch. 12, § 9; Laws, 1962, ch. 348; Laws, 1966, ch. 411, § 1; Laws, 1966, ch. 412, § 1; Laws, 1978, ch. 469, § 2; Laws, 1981, ch. 409, § 5; Laws, 2009, ch. 470, § 5; Laws, 2012, ch. 516, § 3, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2009, ch. 470, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or July 1, 2009, whichever is later.”

By letter dated August 28, 2009, the United States Attorney General interposed no objection to the change in the general election date provided for in Chapter 470, Laws of 2009. As for the proposed changes from a plurality vote to a majority vote requirement for county school board members, for trustees for certain municipal separate school districts and for trustees for special municipal school districts, and the

requirement that a runoff election be held three weeks after the election if no candidate received a majority, the U.S. Attorney General requested additional information from the state. After review of the information provided by the state, the U.S. Attorney General concluded that the state had not met its burden of showing that the proposed changes had neither a discriminatory purpose nor a discriminatory effect, and by letter dated March 24, 2010, objected to the proposed change from plurality to majority vote and the runoff requirement provided for in Chapter 470, Laws of 2009.

Laws of 2012, ch. 516, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2009 amendment purported to rewrite the section. However, Section 5 of Chapter 470, Laws of 2009, did not receive preclearance under Section 5 of the Voting Rights Act, and the amendments to this section by that act were never given effect.

The 2012 amendment rewrote the section.

### ATTORNEY GENERAL OPINIONS

With regard to the election of trustees of municipal separate school districts with added territory, clarifying legislation or additional preclearance of the trustee election procedures proposed by Chapter 470, Laws of 2009 (HB 877) is required to give effect to the Chapter 470 amendments, and until such time as additional

language is precleared or clarifying legislation is enacted, trustee elections shall proceed as reflected in Sections 37-7-215 and 37-7-217 prior to the enactment of Chapter 470. Atkinson, December 18, 2009, A.G. Op. 09-00700, 2009 Miss. AG LEXIS 428

### § 37-7-219. Preparation of list of qualified electors.

**[Effective until the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

For the purpose of holding such an election, it shall be the duty of the trustees of such school district whose terms do not expire in that year to prepare from the records in the office of the county registrar a list of the qualified electors of such school district who are eligible to participate in such election. Such list shall be furnished to the chairman and secretary of said meeting. No person who is not present at the time and place of holding said election shall be eligible to vote therein.

**[Effective from and after the date Laws of 2012, ch. 516, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) For the purpose of holding such an election, it shall be the duty of the county election commissioners to prepare from the records in the office of the county registrar a list of the qualified electors of the school district who are eligible to participate in the election. The list shall be furnished to the election

managers in each precinct, together with the ballots and other election supplies.

(2) In the event that any election precinct embraces parts of two (2) or more school districts it shall be the duty of the county election commissioners to prepare from the records in the office of the county registrar separate lists of the qualified electors of each school district who reside in the precinct and who are eligible to participate in the election. The election commissioners shall furnish to the election managers in the precinct separate ballots and separate ballot boxes and separate voting lists for each school district.

(3) For each day spent in carrying out the provisions of Sections 37-7-211 through 37-7-219, the county election commissioners shall be paid at the rate prescribed by law.

**SOURCES:** Codes, 1942, § 6328-09; Laws, 1953, Ex Sess, ch. 12, § 9; Laws, 1962, ch. 348; Laws, 1966, ch. 411, § 1; Laws, 1966, ch. 412, § 1; Laws, 2012, ch. 516, § 4, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2012, ch. 516, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2012 amendment rewrote (1); and added (2) and (3).

### **§ 37-7-227. Election of consolidated or consolidated line school district trustees; ballot; determination of results; runoffs.**

(1) The county election commissioners shall indicate on the ballot which of the persons whose names appear thereon are candidates for a full term, and which of such persons, if any, are candidates for an unexpired term or terms. The candidate who receives a majority of the votes cast, either for a full term or for an unexpired term or terms, as indicated on the ballot, shall be declared elected, and the person or persons elected to a full term shall assume the duties of his office on the first day of January of the year following such election. The person or persons elected to an unexpired term(s) shall assume office immediately. If no candidate receives a majority of the votes cast at the election, a runoff shall be held in the same manner three (3) weeks after the election between the two (2) candidates receiving the highest number of votes upon the first ballot.

(2) Notwithstanding any other provision of law, if an election for school board trustees occurs on a Tuesday, during a general election, any runoff for such election shall occur three (3) weeks after the election.



**SOURCES:** Codes, 1942, § 6328-11.4; Laws, 1960, ch. 304, § 2; Laws, 1981, ch. 409, § 8; Laws, 2008, ch. 505, § 1, eff July 21, 2008 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — On July 21, 2008, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Laws of 2008, ch. 505.

**Amendment Notes** — The 2008 amendment substituted “three (3) weeks after the election” for “on the third Tuesday after the first Monday in November following such election” near the end of (1); added (2); and made minor stylistic changes.

# ARTICLE 7.

## BOARDS OF TRUSTEES; GENERAL POWERS AND DUTIES.

### SEC.

- 37-7-301. General powers and duties.
- 37-7-306. Training and education requirements.
- 37-7-307. Regulation of leaves for licensed and nonlicensed employees; employment of substitute teachers; donations of leave to other employees; accumulated leave; conversion of certain vacation days to sick leave; definitions.
- 37-7-308. Furlough of instructional, noninstructional and administrative employees [Repealed effective July 1, 2012].
- 37-7-337. Plan to encourage community involvement in schools.
- 37-7-342. Use of service or assistance dogs trained to alert to symptoms of illness or disability authorized in all district facilities.
- 37-7-345. Authorization to establish regional educational service agency; agency to be organized as nonprofit tax exempt corporation; operation and management by public advisory board; board of directors; Executive Director; powers and responsibilities of educational service agency.

## § 37-7-301. General powers and duties.

The school boards of all school districts shall have the following powers, authority and duties in addition to all others imposed or granted by law, to wit:

- (a) To organize and operate the schools of the district and to make such division between the high school grades and elementary grades as, in their judgment, will serve the best interests of the school;
- (b) To introduce public school music, art, manual training and other special subjects into either the elementary or high school grades, as the board shall deem proper;
- (c) To be the custodians of real and personal school property and to manage, control and care for same, both during the school term and during vacation;
- (d) To have responsibility for the erection, repairing and equipping of school facilities and the making of necessary school improvements;
- (e) To suspend or to expel a pupil or to change the placement of a pupil to the school district's alternative school or homebound program for misconduct in the school or on school property, as defined in Section 37-11-29, on the

road to and from school, or at any school-related activity or event, or for conduct occurring on property other than school property or other than at a school-related activity or event when such conduct by a pupil, in the determination of the school superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, and to delegate such authority to the appropriate officials of the school district;

(f) To visit schools in the district, in their discretion, in a body for the purpose of determining what can be done for the improvement of the school in a general way;

(g) To support, within reasonable limits, the superintendent, principal and teachers where necessary for the proper discipline of the school;

(h) To exclude from the schools students with what appears to be infectious or contagious diseases; provided, however, such student may be allowed to return to school upon presenting a certificate from a public health officer, duly licensed physician or nurse practitioner that the student is free from such disease;

(i) To require those vaccinations specified by the State Health Officer as provided in Section 41-23-37;

(j) To see that all necessary utilities and services are provided in the schools at all times when same are needed;

(k) To authorize the use of the school buildings and grounds for the holding of public meetings and gatherings of the people under such regulations as may be prescribed by said board;

(l) To prescribe and enforce rules and regulations not inconsistent with law or with the regulations of the State Board of Education for their own government and for the government of the schools, and to transact their business at regular and special meetings called and held in the manner provided by law;

(m) To maintain and operate all of the schools under their control for such length of time during the year as may be required;

(n) To enforce in the schools the courses of study and the use of the textbooks prescribed by the proper authorities;

(o) To make orders directed to the superintendent of schools for the issuance of pay certificates for lawful purposes on any available funds of the district and to have full control of the receipt, distribution, allotment and disbursement of all funds provided for the support and operation of the schools of such school district whether such funds be derived from state appropriations, local ad valorem tax collections, or otherwise. The local school board shall be authorized and empowered to promulgate rules and regulations that specify the types of claims and set limits of the dollar amount for payment of claims by the superintendent of schools to be ratified by the board at the next regularly scheduled meeting after payment has been made;

(p) To select all school district personnel in the manner provided by law, and to provide for such employee fringe benefit programs, including accident

reimbursement plans, as may be deemed necessary and appropriate by the board;

(q) To provide athletic programs and other school activities and to regulate the establishment and operation of such programs and activities;

(r) To join, in their discretion, any association of school boards and other public school-related organizations, and to pay from local funds other than minimum foundation funds, any membership dues;

(s) To expend local school activity funds, or other available school district funds, other than minimum education program funds, for the purposes prescribed under this paragraph. "Activity funds" shall mean all funds received by school officials in all school districts paid or collected to participate in any school activity, such activity being part of the school program and partially financed with public funds or supplemented by public funds. The term "activity funds" shall not include any funds raised and/or expended by any organization unless commingled in a bank account with existing activity funds, regardless of whether the funds were raised by school employees or received by school employees during school hours or using school facilities, and regardless of whether a school employee exercises influence over the expenditure or disposition of such funds. Organizations shall not be required to make any payment to any school for the use of any school facility if, in the discretion of the local school governing board, the organization's function shall be deemed to be beneficial to the official or extracurricular programs of the school. For the purposes of this provision, the term "organization" shall not include any organization subject to the control of the local school governing board. Activity funds may only be expended for any necessary expenses or travel costs, including advances, incurred by students and their chaperons in attending any in-state or out-of-state school-related programs, conventions or seminars and/or any commodities, equipment, travel expenses, purchased services or school supplies which the local school governing board, in its discretion, shall deem beneficial to the official or extracurricular programs of the district, including items which may subsequently become the personal property of individuals, including yearbooks, athletic apparel, book covers and trophies. Activity funds may be used to pay travel expenses of school district personnel. The local school governing board shall be authorized and empowered to promulgate rules and regulations specifically designating for what purposes school activity funds may be expended. The local school governing board shall provide (i) that such school activity funds shall be maintained and expended by the principal of the school generating the funds in individual bank accounts, or (ii) that such school activity funds shall be maintained and expended by the superintendent of schools in a central depository approved by the board. The local school governing board shall provide that such school activity funds be audited as part of the annual audit required in Section 37-9-18. The State Department of Education shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;



(t) To contract, on a shared savings, lease or lease-purchase basis, for energy efficiency services and/or equipment as provided for in Section 31-7-14, not to exceed ten (10) years;

(u) To maintain accounts and issue pay certificates on school food service bank accounts;

(v)(i) To lease a school building from an individual, partnership, non-profit corporation or a private for-profit corporation for the use of such school district, and to expend funds therefor as may be available from any nonminimum program sources. The school board of the school district desiring to lease a school building shall declare by resolution that a need exists for a school building and that the school district cannot provide the necessary funds to pay the cost or its proportionate share of the cost of a school building required to meet the present needs. The resolution so adopted by the school board shall be published once each week for three (3) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than thirty (30) days prior to the date upon which the school board is to act on the question of leasing a school building. If no petition requesting an election is filed prior to such meeting as hereinafter provided, then the school board may, by resolution spread upon its minutes, proceed to lease a school building. If at any time prior to said meeting a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question, then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of authorizing the school board to lease a school building. Such election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If at least three-fifths ( $\frac{3}{5}$ ) of the qualified electors of the school district who voted in such election shall vote in favor of the leasing of a school building, then the school board shall proceed to lease a school building. The term of the lease contract shall not exceed twenty (20) years, and the total cost of such lease shall be either the amount of the lowest and best bid accepted by the school board after advertisement for bids or an amount not to exceed the current fair market value of the lease as determined by the averaging of at least two (2) appraisals by certified general appraisers licensed by the State of Mississippi. The term "school building" as used in this paragraph (v)(i) shall be construed to mean any building or buildings used for classroom purposes in connection with the operation of schools and shall include the site therefor, necessary support facilities, and the equipment thereof and appurtenances thereto such as heating facilities, water supply, sewage disposal, landscaping, walks, drives and playgrounds. The term "lease" as used in this paragraph (v)(i) may include a lease/purchase contract;

(ii) If two (2) or more school districts propose to enter into a lease contract jointly, then joint meetings of the school boards having control may be held but no action taken shall be binding on any such school district unless the question of leasing a school building is approved in each participating school district under the procedure hereinabove set forth in paragraph (v)(i). All of the provisions of paragraph (v)(i) regarding the term and amount of the lease contract shall apply to the school boards of school districts acting jointly. Any lease contract executed by two (2) or more school districts as joint lessees shall set out the amount of the aggregate lease rental to be paid by each, which may be agreed upon, but there shall be no right of occupancy by any lessee unless the aggregate rental is paid as stipulated in the lease contract. All rights of joint lessees under the lease contract shall be in proportion to the amount of lease rental paid by each;

(w) To employ all noninstructional and noncertificated employees and fix the duties and compensation of such personnel deemed necessary pursuant to the recommendation of the superintendent of schools;

(x) To employ and fix the duties and compensation of such legal counsel as deemed necessary;

(y) Subject to rules and regulations of the State Board of Education, to purchase, own and operate trucks, vans and other motor vehicles, which shall bear the proper identification required by law;

(z) To expend funds for the payment of substitute teachers and to adopt reasonable regulations for the employment and compensation of such substitute teachers;

(aa) To acquire in its own name by purchase all real property which shall be necessary and desirable in connection with the construction, renovation or improvement of any public school building or structure. Whenever the purchase price for such real property is greater than Fifty Thousand Dollars (\$50,000.00), the school board shall not purchase the property for an amount exceeding the fair market value of such property as determined by the average of at least two (2) independent appraisals by certified general appraisers licensed by the State of Mississippi. If the board shall be unable to agree with the owner of any such real property in connection with any such project, the board shall have the power and authority to acquire any such real property by condemnation proceedings pursuant to Section 11-27-1 et seq., Mississippi Code of 1972, and for such purpose, the right of eminent domain is hereby conferred upon and vested in said board. Provided further, that the local school board is authorized to grant an easement for ingress and egress over sixteenth section land or lieu land in exchange for a similar easement upon adjoining land where the exchange of easements affords substantial benefit to the sixteenth section land; provided, however, the exchange must be based upon values as determined by a competent appraiser, with any differential in value to be adjusted by cash payment. Any easement rights granted over sixteenth section land under such authority shall terminate when the easement ceases

to be used for its stated purpose. No sixteenth section or lieu land which is subject to an existing lease shall be burdened by any such easement except by consent of the lessee or unless the school district shall acquire the unexpired leasehold interest affected by the easement;

(bb) To charge reasonable fees related to the educational programs of the district, in the manner prescribed in Section 37-7-335;

(cc) Subject to rules and regulations of the State Board of Education, to purchase relocatable classrooms for the use of such school district, in the manner prescribed in Section 37-1-13;

(dd) Enter into contracts or agreements with other school districts, political subdivisions or governmental entities to carry out one or more of the powers or duties of the school board, or to allow more efficient utilization of limited resources for providing services to the public;

(ee) To provide for in-service training for employees of the district;

(ff) As part of their duties to prescribe the use of textbooks, to provide that parents and legal guardians shall be responsible for the textbooks and for the compensation to the school district for any books which are not returned to the proper schools upon the withdrawal of their dependent child. If a textbook is lost or not returned by any student who drops out of the public school district, the parent or legal guardian shall also compensate the school district for the fair market value of the textbooks;

(gg) To conduct fund-raising activities on behalf of the school district that the local school board, in its discretion, deems appropriate or beneficial to the official or extracurricular programs of the district; provided that:

(i) Any proceeds of the fund-raising activities shall be treated as "activity funds" and shall be accounted for as are other activity funds under this section; and

(ii) Fund-raising activities conducted or authorized by the board for the sale of school pictures, the rental of caps and gowns or the sale of graduation invitations for which the school board receives a commission, rebate or fee shall contain a disclosure statement advising that a portion of the proceeds of the sales or rentals shall be contributed to the student activity fund;

(hh) To allow individual lessons for music, art and other curriculum-related activities for academic credit or nonacademic credit during school hours and using school equipment and facilities, subject to uniform rules and regulations adopted by the school board;

(ii) To charge reasonable fees for participating in an extracurricular activity for academic or nonacademic credit for necessary and required equipment such as safety equipment, band instruments and uniforms;

(jj) To conduct or participate in any fund-raising activities on behalf of or in connection with a tax-exempt charitable organization;

(kk) To exercise such powers as may be reasonably necessary to carry out the provisions of this section;

(ll) To expend funds for the services of nonprofit arts organizations or other such nonprofit organizations who provide performances or other services for the students of the school district;



(mm) To expend federal No Child Left Behind Act funds, or any other available funds that are expressly designated and authorized for that use, to pay training, educational expenses, salary incentives and salary supplements to employees of local school districts; except that incentives shall not be considered part of the local supplement as defined in Section 37-151-5(o), nor shall incentives be considered part of the local supplement paid to an individual teacher for the purposes of Section 37-19-7(1). Mississippi Adequate Education Program funds or any other state funds may not be used for salary incentives or salary supplements as provided in this paragraph (mm);

(nn) To use any available funds, not appropriated or designated for any other purpose, for reimbursement to the state-licensed employees from both in state and out of state, who enter into a contract for employment in a school district, for the expense of moving when the employment necessitates the relocation of the licensed employee to a different geographical area than that in which the licensed employee resides before entering into the contract. The reimbursement shall not exceed One Thousand Dollars (\$1,000.00) for the documented actual expenses incurred in the course of relocating, including the expense of any professional moving company or persons employed to assist with the move, rented moving vehicles or equipment, mileage in the amount authorized for county and municipal employees under Section 25-3-41 if the licensed employee used his personal vehicle or vehicles for the move, meals and such other expenses associated with the relocation. No licensed employee may be reimbursed for moving expenses under this section on more than one (1) occasion by the same school district. Nothing in this section shall be construed to require the actual residence to which the licensed employee relocates to be within the boundaries of the school district that has executed a contract for employment in order for the licensed employee to be eligible for reimbursement for the moving expenses. However, the licensed employee must relocate within the boundaries of the State of Mississippi. Any individual receiving relocation assistance through the Critical Teacher Shortage Act as provided in Section 37-159-5 shall not be eligible to receive additional relocation funds as authorized in this paragraph;

(oo) To use any available funds, not appropriated or designated for any other purpose, to reimburse persons who interview for employment as a licensed employee with the district for the mileage and other actual expenses incurred in the course of travel to and from the interview at the rate authorized for county and municipal employees under Section 25-3-41;

(pp) Consistent with the report of the Task Force to Conduct a Best Financial Management Practices Review, to improve school district management and use of resources and identify cost savings as established in Section 8 of Chapter 610, Laws of 2002, local school boards are encouraged to conduct independent reviews of the management and efficiency of schools and school districts. Such management and efficiency reviews shall provide state and local officials and the public with the following:

(i) An assessment of a school district's governance and organizational structure;

(ii) An assessment of the school district's financial and personnel management;

(iii) An assessment of revenue levels and sources;

(iv) An assessment of facilities utilization, planning and maintenance;

(v) An assessment of food services, transportation and safety/security systems;

(vi) An assessment of instructional and administrative technology;

(vii) A review of the instructional management and the efficiency and effectiveness of existing instructional programs; and

(viii) Recommended methods for increasing efficiency and effectiveness in providing educational services to the public;

(qq) To enter into agreements with other local school boards for the establishment of an educational service agency (ESA) to provide for the cooperative needs of the region in which the school district is located, as provided in Section 37-7-345;

(rr) To implement a financial literacy program for students in Grades 10 and 11. The board may review the national programs and obtain free literature from various nationally recognized programs. After review of the different programs, the board may certify a program that is most appropriate for the school districts' needs. If a district implements a financial literacy program, then any student in Grade 10 or 11 may participate in the program. The financial literacy program shall include, but is not limited to, instruction in the same areas of personal business and finance as required under Section 37-1-3(2)(b). The school board may coordinate with volunteer teachers from local community organizations, including, but not limited to, the following: United States Department of Agriculture Rural Development, United States Department of Housing and Urban Development, Junior Achievement, bankers and other nonprofit organizations. Nothing in this paragraph shall be construed as to require school boards to implement a financial literacy program;

(ss) To collaborate with the State Board of Education, Community Action Agencies or the Department of Human Services to develop and implement a voluntary program to provide services for a prekindergarten program that addresses the cognitive, social, and emotional needs of four-year-old and three-year-old children. The school board may utilize any source of available revenue to fund the voluntary program;

(tt) With respect to any lawful, written obligation of a school district, including, but not limited to, leases (excluding leases of sixteenth section public school trust land), bonds, notes, or other agreement, to agree in writing with the obligee that the Department of Revenue or any state agency, department or commission created under state law may:

(i) Withhold all or any part (as agreed by the school board) of any monies which such local school board is entitled to receive from time to time under any law and which is in the possession of the Department of Revenue, or any state agency, department or commission created under state law; and

(ii) Pay the same over to any financial institution, trustee or other obligee, as directed in writing by the school board, to satisfy all or part of such obligation of the school district.

The school board may make such written agreement to withhold and transfer funds irrevocable for the term of the written obligation and may include in the written agreement any other terms and provisions acceptable to the school board. If the school board files a copy of such written agreement with the Department of Revenue, or any state agency, department or commission created under state law then the Department of Revenue or any state agency, department or commission created under state law shall immediately make the withholdings provided in such agreement from the amounts due the local school board and shall continue to pay the same over to such financial institution, trustee or obligee for the term of the agreement.

This paragraph (tt) shall not grant any extra authority to a school board to issue debt in any amount exceeding statutory limitations on assessed value of taxable property within such school district or the statutory limitations on debt maturities, and shall not grant any extra authority to impose, levy or collect a tax which is not otherwise expressly provided for, and shall not be construed to apply to sixteenth section public school trust land;

(uu) With respect to any matter or transaction that is competitively bid by a school district, to accept from any bidder as a good faith deposit or bid bond or bid surety, the same type of good-faith deposit or bid bond or bid surety that may be accepted by the state or any other political subdivision on similar competitively bid matters or transactions. This paragraph (uu) shall not be construed to apply to sixteenth section public school trust land. The school board may authorize the investment of any school district funds in the same kind and manner of investments, including pooled investments, as any other political subdivision, including community hospitals;

(vv) To utilize the alternate method for the conveyance or exchange of unused school buildings and/or land, reserving a partial or other undivided interest in the property, as specifically authorized and provided in Section 37-7-485, Mississippi Code of 1972;

(ww) To delegate, privatize or otherwise enter into a contract with private entities for the operation of any and all functions of nonacademic school process, procedures and operations including, but not limited to, cafeteria workers, janitorial services, transportation, professional development, achievement and instructional consulting services materials and products, purchasing cooperatives, insurance, business manager services, auditing and accounting services, school safety/risk prevention, data processing and student records, and other staff services; however, the authority under this paragraph does not apply to the leasing, management or operation of sixteenth section lands. Local school districts, working through their regional education service agency, are encouraged to enter into buying consortia with other member districts for the purposes of more efficient use of state resources as described in Section 37-7-345;



(xx) To partner with entities, organizations and corporations for the purpose of benefiting the school district;

(yy) To borrow funds from the Rural Economic Development Authority for the maintenance of school buildings;

(zz) To fund and operate voluntary early childhood education programs, defined as programs for children less than five (5) years of age on or before September 1, and to use any source of revenue for such early childhood education programs. Such programs shall not conflict with the Early Learning Collaborative Act of 2007;

(aaa) To issue and provide for the use of procurement cards by school board members, superintendents and licensed school personnel consistent with the rules and regulations of the Mississippi Department of Finance and Administration under Section 31-7-9; and

(bbb) To conduct an annual comprehensive evaluation of the superintendent of schools consistent with the assessment components of paragraph (pp) of this section and the assessment benchmarks established by the Mississippi School Board Association to evaluate the success the superintendent has attained in meeting district goals and objectives, the superintendent's leadership skill and whether or not the superintendent has established appropriate standards for performance, is monitoring success and is using data for improvement.

**SOURCES:** Codes, 1942, § 6328-24; Laws, 1953, Ex Sess, ch. 28, § 2; Laws, 1970, ch. 373, § 1; Laws, 1971, ch. 340, § 1; Laws, 1982, ch. 466, § 1; Laws, 1985, ch. 466, § 1; Laws, 1985, ch. 493, § 3; Laws, 1986, ch. 415, § 3; Laws, 1986, ch. 433, § 18; Laws, 1986, ch. 492, § 9; Laws, 1987, ch. 307, § 4; Laws, 1989, ch. 585, § 6; Laws, 1990, ch. 535, § 4; Laws, 1993, ch. 549, § 1; Laws, 1993, ch. 562, § 1; Laws, 1995, ch. 515, § 1; Laws, 1995, ch. 344, § 3; Laws, 1995, ch. 426, § 2; Laws, 1996, ch. 437, § 1; Laws, 2000, ch. 370, § 4; Laws, 2000, ch. 559, § 1; Laws, 2004, ch. 408, § 2; Laws, 2004, ch. 485, § 1; Laws, 2004, ch. 563, § 1; Laws, 2005, ch. 394, § 1; Laws, 2005, ch. 540, § 2; Laws, 2006, ch. 390, § 1; Laws, 2006, ch. 417, § 14; Laws, 2007, ch. 416, § 2; Laws, 2009, ch. 317, § 1; reenacted without change, Laws, 2009, ch. 345, § 7; Laws, 2010, ch. 488, § 5; Laws, 2012, ch. 490, § 1; Laws, 2012, ch. 543, § 2, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Section 1 of ch. 317, Laws of 2009, effective from and after July 1, 2009 (approved March 9, 2009), amended this section. Section 7 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 1 of ch. 317, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 2 of ch. 543, Laws of 2012, effective from and after July 1, 2012 (approved May 22, 2012), amended this section. Section 1 of ch. 490, Laws of 2012, effective July 1, 2012 (approved April 26, 2012), amended this section. As set out above, this section reflects the language of Section 2 of ch. 543, Laws of 2012, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date supersedes all other amendments to the same section approved on an earlier date.

**Amendment Notes** — The first 2009 amendment (ch. 317), in (ss), deleted “full-day” preceding “prekindergarten program” in the first sentence, and substituted “any source of available revenue” for “nonstate source special funds, grants, donations or gifts” in the second sentence; added (zz); and made minor stylistic changes.

The second 2009 amendment (ch. 345) reenacted this section without change.

The 2010 amendment deleted the undesignated paragraph following (qq), which read: “This paragraph shall repeal on July 1, 2010.”

The first 2012 amendment (ch. 490), substituted “Department of Revenue” for “State Tax Commission” throughout (tt); added (aaa); and made minor stylistic changes throughout.

The second 2012 amendment (ch. 543), substituted “Department of Revenue” for “State Tax Commission” throughout (tt); and added (aaa) and (bbb) and made minor punctuation changes.

**Cross References** — Early Learning Collaborative Act of 2007, see § 37-21-51.

## JUDICIAL DECISIONS

4. Student rights and discipline.
6. Miscellaneous.

### 4. Student rights and discipline.

Where disciplinary proceedings were commenced against a student for violating his school’s policy that prohibited students from carrying weapons, the school board did not err in delegating authority to the superintendent to determine whether the object was a knife under school policy and state law. *Miss. Code Ann. § 37-7-301(e)* authorized the school board to delegate authority to the superintendent to make a determination as to whether the seized instrument was a weapon, so long as the school board made

the final determination regarding discipline. *Hinds County Sch. Dist. Bd. v. R.B.*, 10 So. 3d 387 (Miss. 2008).

### 6. Miscellaneous.

Because a decedent was not invited to use a school district bus parking lot, he was a trespasser, and when he left the lot to attempt to cross a public road, he relinquished that status. Thus, the district owed the decedent no duty under *Miss. Code Ann. §§ 37-9-69 and 37-7-301* when he stepped off district property and was struck by an oncoming motorist while crossing the road. *Gammel v. Tate County Sch. Dist.*, 995 So. 2d 853 (Miss. Ct. App. 2008).

## ATTORNEY GENERAL OPINIONS

A leadership book for teacher use and cell phone service for use by coaches and/or teachers when traveling on school functions may be paid with activity funds if the school board deems the expenses beneficial to the official or extracurricular programs of the district. No authority can be found for expenditure of activity funds for membership dues for a principal to belong to a school-related organization. *Compton*, July 22, 2005, A.G. Op. 05-0283.

A county school district board has the authority to accept a donation of funds from a non-profit organization for the purpose of constructing an indoor batting facility. *Foster*, July 29, 2005, A.G. Op. 05-0373.

No statutory provisions are known, other than the conflict of interest laws, that would prevent a school board from purchasing real property from the regular school board attorney, as long as the purchase is made in accordance with Section 37-7-301. *Johnson*, Oct. 7, 2005, A.G. Op. 05-0473.

A school board may require a Health Certificate to be obtained by all new employees as a condition to employment. *Mayfield*, Dec. 9, 2005, A.G. Op. 05-0572.

A school board would have the authority to pay for the cost of a portrait to be placed at a high school and the cost of having a mural painted on a wall at the school to honor former students upon making a

finding that the expenditures are reasonable and necessary and for the support and operation of its schools and the educational benefit of its students and funds are available. Compton, Apr. 28, 2006, A.G. Op. 06-0144.

There is no authority which grants special privileges to a school district employee who also serves as a public official. Mayfield, Apr. 28, 2006, A.G. Op. 06-0121.

A school board has authority to lease property from the U.S. Army Corps of Engineers; this response does not change for leasing unimproved real property. Walker, July 11, 2006, A.G. Op. 06-0226.

For purposes of application of the separation of powers doctrine, a local school board is an officer exercising powers in the executive branch of government. Bounds, July 27, 2006, A.G. Op. 06-0276.

A school district has the authority to have a student tested for suspicion of using drugs without first securing the parent's or guardian's permission. Montgomery, Aug. 20, 2006, A.G. Op. 06-0513.

Each school district in adopting board regulations pertaining to the use of school facilities for the purpose of conducting public meetings must take into consideration federal constitutional standards as well as current federal statutes. Roach, Aug. 25, 2006, A.G. Op. 06-0362.

A school board may adopt a policy prohibiting the use of the name of the school district for student functions located off campus where all students are not invited. Roach, Aug. 25, 2006, A.G. Op. 06-0362.

The school board has authority to impose disciplinary action for conduct committed at a school-related activity or event or for conduct occurring on property other than school property or at a school-related event. Roach, Aug. 25, 2006, A.G. Op. 06-0362.

A local school board is authorized to acquire, in its own name by purchase, real property consisting of a building located thereon to be used for administrative pur-

poses by the superintendent and central office staff as well as providing additional meeting rooms for school board meetings, provided the requirements of Section 37-7-301(aa) are met. Maples, Sept. 29, 2006, A.G. Op. 06-0469.

A school board has authority to authorize the payment of Hepatitis B vaccines for all school district employees who may be exposed to blood borne pathogens. Smith, Oct. 20, 2006, A.G. Op. 06-0522.

Lease of school facilities to a church for worship services by the Board of Trustees is permissible under Miss. Code Ann. § 37-7-301, so long as the use is allowed under a reasonable and nondiscriminatory policy prescribed by the Board and applied in a reasonable and nondiscriminatory manner, and so long as the church complies with the Board's Building Use Policy. Henderson, February 2, 2007, A.G. Op. #07-00017, 2007 Miss. AG LEXIS 7.

A school board may employ legal counsel other than the Board Attorney only by a majority vote of a quorum present in a properly noticed and open meeting of the board, and must officially hire an attorney before sharing any confidential personnel records. Reasons for non-renewal of a superintendent's contract and any settlement offers must be approved and recorded in the minutes at an official meeting of the board. All policies, actions, and decisions of the school board must be reasonable and necessary to meet the educational needs of the district's children. Foreman, March 30, 2007, A.G. Op. #07-00119, 2007 Miss. AG LEXIS 71.

Purchase of athletic equipment and travel expenses of students and chaperones for school-related extracurricular clubs and teams are allowable expenditures of activity funds derived from athletic events. If the local school board deems the expenses beneficial to the extracurricular programs and students of the district, it may authorize the expenditures pursuant to Miss. Code Ann. § 37-7-301(s). Caudill, March 30, 2007, A.G. Op. #07-00122, 2007 Miss. AG LEXIS 76.

### § 37-7-301.1. Local school districts granted home rule.

**SOURCES:** Laws, 2006, ch. 417, § 1; Laws, 2006, ch. 504, § 5; reenacted without change, Laws, 2009, ch. 345, § 8, eff from and after June 30, 2009.



**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

This section was reenacted without change by Laws of 2009, ch. 345, § 8, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

### § 37-7-306. Training and education requirements.

(1) Every school board member selected after July 1, 2002, shall have a high school diploma or its equivalent.

(2) Every school board member selected after July 1, 1993, shall be required to complete a basic course of training and education for local school board members, in order for board members to carry out their duties more effectively and be exposed to new ideas involving school restructuring. Such basic course of training shall be conducted by the Mississippi School Boards Association. Upon completion of the basic course of training, the Mississippi School Boards Association shall file a certificate of completion for the school board member with the office of the local school board. In the event that a board member fails to complete such training within six (6) months of his selection, such board member shall no longer be qualified to serve and shall be removed from office.

(3) In addition to meeting the requirements of subsection (2) of this section, after taking office, each school board member shall be required to file annually in the office of the school board a certificate of completion of a course of continuing education conducted by the Mississippi School Boards Association. In addition, those board members required to attend the additional training as provided in Section 37-3-4(5)(c) shall be required to comply with the annual certification provided herein for such additional training.

(4) Every school board member selected after July 1, 2002, shall spend at least one (1) full day in a school in the district they represent, without compensation.

(5) Upon the failure of any local school board member to file with the school board the certificate of completion of the basic or continuing course of training as provided in subsection (2) or (3) of this section, or the additional training as required in Section 37-3-4(5)(c), the school board member shall be removed from office by the Attorney General. In the event of a medical or other catastrophic hardship that prevents such school board member from obtaining the required training or filing such certificate, as may be defined by the Board of Directors of the Mississippi School Boards Association by rule and regulation, an additional period of three (3) months may be allowed to satisfy the requirements of subsection (2) or (3).

**SOURCES:** Laws, 1991, ch. 502, § 11; Laws, 1993, ch. 562, § 3; Laws, 1998, ch. 564, § 2; Laws, 2000, ch. 533, § 7; Laws, 2000, ch. 610, §§ 5, 7; Laws, 2002, ch. 611, § 5; Laws, 2006, ch. 334, § 2; Laws, 2006, ch. 335, § 2; Laws, 2008, ch. 338, § 2, eff from and after July 1, 2008.

**Amendment Notes** — The 2008 amendment added the last sentence of (3); and inserted “or the additional training as required in Section 37-3-4(5)(c) in the first sentence of (5).

**§ 37-7-307. Regulation of leaves for licensed and nonlicensed employees; employment of substitute teachers; donations of leave to other employees; accumulated leave; conversion of certain vacation days to sick leave; definitions.**

(1) For purposes of this section, the term “licensed employee” means any employee of a public school district required to hold a valid license by the Commission on Teacher and Administrator Education, Certification and Licensure and Development.

(2) The school board of a school district shall establish by rules and regulations a policy of sick leave with pay for licensed employees and teacher assistants employed in the school district, and such policy shall include the following minimum provisions for sick and emergency leave with pay:

(a) Each licensed employee and teacher assistant, at the beginning of each school year, shall be credited with a minimum sick leave allowance, with pay, of seven (7) days for absences caused by illness or physical disability of the employee during that school year.

(b) Any unused portion of the total sick leave allowance shall be carried over to the next school year and credited to such licensed employee and teacher assistant if the licensed employee or teacher assistant remains employed in the same school district. In the event any public school licensed employee or teacher assistant transfers from one public school district in Mississippi to another, any unused portion of the total sick leave allowance credited to such licensed employee or teacher assistant shall be credited to such licensed employee or teacher assistant in the computation of unused leave for retirement purposes under Section 25-11-109. Accumulation of sick leave allowed under this section shall be unlimited.

(c) No deduction from the pay of such licensed employee or teacher assistant may be made because of absence of such licensed employee or teacher assistant caused by illness or physical disability of the licensed employee or teacher assistant until after all sick leave allowance credited to such licensed employee or teacher assistant has been used.

(d) For the first ten (10) days of absence of a licensed employee because of illness or physical disability, in any school year, in excess of the sick leave allowance credited to such licensed employee, there shall be deducted from the pay of such licensed employee the established substitute amount of licensed employee compensation paid in that local school district, necessitated because of the absence of the licensed employee as a result of illness or physical disability. In lieu of deducting the established substitute amount from the pay of such licensed employee, the policy may allow the licensed employee to receive full pay for the first ten (10) days of absence because of illness or physical disability, in any school year, in excess of the sick leave allowance credited to such licensed employee. Thereafter, the regular pay of

such absent licensed employee shall be suspended and withheld in its entirety for any period of absence because of illness or physical disability during that school year.

(3) Beginning with the school year 1983-1984, each licensed employee at the beginning of each school year shall be credited with a minimum personal leave allowance, with pay, of two (2) days for absences caused by personal reasons during that school year. Effective for the 2010-2011 and 2011-2012 school years, licensed employees shall be credited with an additional one-half ( $\frac{1}{2}$ ) day of personal leave for every day the licensed employee is furloughed without pay as provided in Section 37-7-308. Such personal leave shall not be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday, unless on such days an immediate family member of the employee is being deployed for military service. Personal leave may be used for professional purposes, including absences caused by attendance of such licensed employee at a seminar, class, training program, professional association or other functions designed for educators. No deduction from the pay of such licensed employee may be made because of absence of such licensed employee caused by personal reasons until after all personal leave allowance credited to such licensed employee has been used. However, the superintendent of a school district, in his discretion, may allow a licensed employee personal leave in addition to any minimum personal leave allowance, under the condition that there shall be deducted from the salary of such licensed employee the actual amount of any compensation paid to any person as a substitute, necessitated because of the absence of the licensed employee. Any unused portion of the total personal leave allowance up to five (5) days shall be carried over to the next school year and credited to such licensed employee if the licensed employee remains employed in the same school district. Any personal leave allowed for a furlough day shall not be carried over to the next school year.

(4) Beginning with the school year 1992-1993, each licensed employee shall be credited with a professional leave allowance, with pay, for each day of absence caused by reason of such employee's statutorily required membership and attendance at a regular or special meeting held within the State of Mississippi of the State Board of Education, the Commission on Teacher and Administrator Education, Certification and Licensure and Development, the Commission on School Accreditation, the Mississippi Authority for Educational Television, the meetings of the state textbook rating committees or other meetings authorized by local school board policy.

(5) Upon retirement from employment, each licensed and nonlicensed employee shall be paid for not more than thirty (30) days of unused accumulated leave earned while employed by the school district in which the employee is last employed. Such payment for licensed employees shall be made by the school district at a rate equal to the amount paid to substitute teachers and for nonlicensed employees, the payment shall be made by the school district at a rate equal to the federal minimum wage. The payment shall be treated in the same manner for retirement purposes as a lump-sum payment for personal



leave as provided in Section 25-11-103(e). Any remaining lawfully credited unused leave, for which payment has not been made, shall be certified to the Public Employees' Retirement System in the same manner and subject to the same limitations as otherwise provided by law for unused leave. No payment for unused accumulated leave may be made to either a licensed or nonlicensed employee at termination or separation from service for any purpose other than for the purpose of retirement.

(6) The school board may adopt rules and regulations which will reasonably aid to implement the policy of sick and personal leave, including, but not limited to, rules and regulations having the following general effect:

(a) Requiring the absent employee to furnish the certificate of a physician or dentist or other medical practitioner as to the illness of the absent licensed employee, where the absence is for four (4) or more consecutive school days, or for two (2) consecutive school days immediately preceding or following a nonschool day;

(b) Providing penalties, by way of full deduction from salary, or entry on the work record of the employee, or other appropriate penalties, for any materially false statement by the employee as to the cause of absence;

(c) Forfeiture of accumulated or future sick leave, if the absence of the employee is caused by optional dental or medical treatment or surgery which could, without medical risk, have been provided, furnished or performed at a time when school was not in session;

(d) Enlarging, increasing or providing greater sick or personal leave allowances than the minimum standards established by this section in the discretion of the school board of each school district.

(7) School boards may include in their budgets provisions for the payment of substitute employees, necessitated because of the absence of regular licensed employees. All such substitute employees shall be paid wholly from district funds, except as otherwise provided for long-term substitute teachers in Section 37-19-20. Such school boards, in their discretion, also may pay, from district funds other than adequate education program funds, the whole or any part of the salaries of all employees granted leaves for the purpose of special studies or training.

(8) The school board may further adopt rules and regulations which will reasonably implement such leave policies for all other nonlicensed and hourly paid school employees as the board deems appropriate. Effective for the 2010-2011 and 2011-2012 school years, nonlicensed employees shall be credited with an additional one-half ( $\frac{1}{2}$ ) day of personal leave for every day the nonlicensed employee is furloughed without pay as provided in Section 37-7-308.

(9) Vacation leave granted to either licensed or nonlicensed employees shall be synonymous with personal leave. Unused vacation or personal leave accumulated by licensed employees in excess of the maximum five (5) days which may be carried over from one year to the next may be converted to sick leave. The annual conversion of unused vacation or personal leave to sick days for licensed or unlicensed employees shall not exceed the allowable number of

personal leave days as provided in Section 25-3-93. The annual total number of converted unused vacation and/or personal days added to the annual unused sick days for any employee shall not exceed the combined allowable number of days per year provided in Sections 25-3-93 and 25-3-95. Local school board policies that provide for vacation, personal and sick leave for employees shall not exceed the provisions for leave as provided in Sections 25-3-93 and 25-3-95. Any personal or vacation leave previously converted to sick leave under a lawfully adopted policy before May 1, 2004, or such personal or vacation leave accumulated and available for use prior to May 1, 2004, under a lawfully adopted policy but converted to sick leave after May 1, 2004, shall be recognized as accrued leave by the local school district and available for use by the employee. The leave converted under a lawfully adopted policy prior to May 1, 2004, or such personal and vacation leave accumulated and available for use as of May 1, 2004, which was subsequently converted to sick leave may be certified to the Public Employees' Retirement System upon termination of employment and any such leave previously converted and certified to the Public Employees' Retirement System shall be recognized.

(10)(a) For the purposes of this subsection, the following words and phrases shall have the meaning ascribed in this paragraph unless the context requires otherwise:

(i) "Catastrophic injury or illness" means a life-threatening injury or illness of an employee or a member of an employee's immediate family that totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the local school district for the employee. Conditions that are short-term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries, are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, that result in intermittent absences from work and that are long-term in nature and require long recuperation periods may be considered catastrophic.

(ii) "Immediate family" means spouse, parent, stepparent, sibling, child or stepchild.

(b) Any school district employee may donate a portion of his or her unused accumulated personal leave or sick leave to another employee of the same school district who is suffering from a catastrophic injury or illness or who has a member of his or her immediate family suffering from a catastrophic injury or illness, in accordance with the following:

(i) The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of unused accumulated personal leave and sick leave that is to be donated, and shall notify the school district superintendent or his designee of his or her designation.

(ii) The maximum amount of unused accumulated personal leave that an employee may donate to any other employee may not exceed a number of days that would leave the donor employee with fewer than

seven (7) days of personal leave remaining, and the maximum amount of unused accumulated sick leave that an employee may donate to any other employee may not exceed fifty percent (50%) of the unused accumulated sick leave of the donor employee.

(iii) An employee must have exhausted all of his or her available leave before he or she will be eligible to receive any leave donated by another employee. Eligibility for donated leave shall be based upon review and approval by the donor employee's supervisor.

(iv) Before an employee may receive donated leave, he or she must provide the school district superintendent or his designee with a physician's statement that states that the illness meets the catastrophic criteria established under this section, the beginning date of the catastrophic injury or illness, a description of the injury or illness, and a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.

(v) Before an employee may receive donated leave, the superintendent of education of the school district shall appoint a review committee to approve or disapprove the said donations of leave, including the determination that the illness is catastrophic within the meaning of this section.

(vi) If the total amount of leave that is donated to any employee is not used by the recipient employee, the whole days of donated leave shall be returned to the donor employees on a pro rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees.

(vii) Donated leave shall not be used in lieu of disability retirement.

**SOURCES:** Codes, 1942, § 6328-28; Laws, 1953, Ex Sess, ch. 17, § 8; Laws, 1978, ch. 513, § 1, 1982, ch. 491; Laws, 1986, ch. 492, § 13; Laws, 1986, ch. 493; Laws, 1987, ch. 307, § 5, 1992, ch. 450, § 1; Laws, 1994, ch. 623, § 1; Laws, 1995, ch. 586, § 1; Laws, 1996, ch. 548, § 1; Laws, 1998, ch. 580, § 1; Laws, 1999, ch. 561, § 2; Laws, 2003, ch. 458, § 1; Laws, 2003, ch. 546, § 1; Laws, 2004, ch. 480, § 1; Laws, 2005, ch. 354, § 1; Laws, 2010, ch. 486, § 3; Laws, 2012, ch. 463, § 1; Laws, 2012, ch. 543, § 7, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Section 7 of ch. 543, Laws of 2012, effective from and after July 1, 2012 (approved May 22, 2012), amended this section. Section 1 of ch. 463, Laws of 2012, effective July 1, 2012 (approved April 23, 2012), also amended this section. As set out above, this section reflects the language of Section 7 of ch. 543, Laws of 2012, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date supersedes all other amendments to the same section approved on an earlier date.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. In (10)(b)(v), the word "within" was substituted for "with." The Joint Committee ratified the correction at its August 16, 2012, meeting.

**Amendment Notes** — The 2010 amendment, in (3), added the second and last sentences; and added the last sentence in (8).

The first 2012 amendment (ch. 463), added the second sentence in (2); and made minor stylistic changes.



The second 2012 amendment (ch. 543), in (2)(d), substituted “shall be deducted” for “may be deducted” in the first sentence, inserted the second sentence, and substituted “shall be suspended” for “may be suspended” in the last sentence; deleted “or another” following “same” in the introductory paragraph of (10)(b); inserted “that the illness meets the catastrophic criteria established under this section” in (10)(b)(iv); and added (10)(b)(v) and redesignated former (10)(b)(v) and (vi) and (10)(b)(vi) and (vii), respectively.

### ATTORNEY GENERAL OPINIONS

The board of trustees of a local school district must make a determination on a case-by-case basis as to whether an employee’s particular illness is a condition which meets the statutory definition of “catastrophic injury or illness.” Cox, July 22, 2005, A.G. Op. 05-0499.

As a result of the 2005 amendment to Section 37-7-307, a school district may not maintain its existing leave policy that exceeds the combined personal and sick leave policy for state employees. The amendment supercedes McAlpin, July 31, 1995, A.G. Op. 95-0405. Chaney, Aug. 12, 2005, A.G. Op. 05-0367.

A school board policy that grants a “bonus” day of personal leave for perfect attendance for both licensed and non-licensed employees is permissible under Section 37-7-307 and would not violate

Miss. Const. Art. 4, § 96, as long as the extra leave does not cause the total amount of leave granted to the employees to exceed the limitations of Section 37-7-307(9). Jacks, Dec. 27, 2005, A.G. Op. 05-0600.

A school district may implement a leave policy which pays part-time hourly employees for leave taken in recognition of a federal holiday if the holidays granted do not exceed those permitted by the state and if the policy is applied consistently to all part-time hourly employees. Chaney, Feb. 2, 2006, A.G. Op. 04-0646.

A serious and complicated pregnancy that totally incapacitates an employee from work may be determined to be “catastrophic illness,” as defined by Section 37-7-307(10)(a)(I). Elliot, Feb. 10, 2006, A.G. Op. 06-0032.

### § 37-7-308. Furlough of instructional, noninstructional and administrative employees [Repealed effective July 1, 2012].

(1) For purposes of this section, “furlough” is defined as the placement of an employee temporarily and involuntarily in a nonpay and nonduty status for a limited number of workdays during the school year.

(2) In the event a local school board determines that a serious financial condition exists and that resources are insufficient to meet district obligations, the local school board may adopt a resolution on the recommendation of the local superintendent to furlough all instructional, noninstructional and administrative employees of the school district, including the superintendent, for not more than three (3) days during the 2010-2011 school year and for not more than three (3) days during the 2011-2012 school year. For every day an instructional, noninstructional or administrative employee with a contract not less than one hundred eighty-seven (187) days is furloughed without pay, the employee shall be authorized to take one-half (½) day of personal leave under the conditions of Section 37-7-307(3). The three (3) discretionary furlough days for all licensed employees in the 2010-2011 school year and the 2011-2012 school year shall not be taken during days that are devoted to classroom instruction.

(3) This section shall stand repealed from and after July 1, 2012.

**SOURCES:** Laws, 2010, ch. 486, § 2, eff from and after passage (approved Apr. 7, 2010.)

### **§ 37-7-315. Designation of school buildings and attendance centers.**

#### **ATTORNEY GENERAL OPINIONS**

Each county is required under Miss. Code Ann. § 19-7-1 to build a jail within the corporate limits of the municipality where the courts are required to sit. A municipality is obligated to grant a special exception to its zoning ordinances unless it is determined, consistent with

the facts, that construction of a county jail would create a public nuisance or a clear and present danger to the public health and welfare. Yancey, Mitchell, March 23, 2007, A.G. Op. #07-00120, 2007 Miss. AG LEXIS 75.

### **§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services.**

#### **JUDICIAL DECISIONS**

##### **1. Immunity.**

While Miss. Code Ann. § 37-7-321 and Miss. Code Ann. § 37-7-323 allowed schools to retain independent contractors to work as peace officers on school grounds, the legislature however did not provide an express grant of immunity to those independent contractors under

Miss. Code Ann. § 19-19-5 or the Mississippi Tort Claims Act (MTCA), Miss. Code Ann. § 11-46-9; accordingly, the trial court erred in finding that the security contractor was immune to suit by virtue of the MTCA. *Knight v. Terrell*, 961 So. 2d 30 (Miss. 2007).

### **§ 37-7-323. Application and enforcement of general criminal laws of state.**

#### **JUDICIAL DECISIONS**

##### **1. Immunity.**

While Miss. Code Ann. § 37-7-321 and Miss. Code Ann. § 37-7-323 allowed schools to retain independent contractors to work as peace officers on school grounds, the legislature however did not provide an express grant of immunity to those independent contractors under

Miss. Code Ann. § 19-19-5 or the Mississippi Tort Claims Act (MTCA), Miss. Code Ann. § 11-46-9; accordingly, the trial court erred in finding that the security contractor was immune to suit by virtue of the MTCA. *Knight v. Terrell*, 961 So. 2d 30 (Miss. 2007).

**§ 37-7-337. Plan to encourage community involvement in schools.**

(1) The governing authorities of the county, counties or city in which a school district is located and the school board of each school district shall develop a five-year plan to encourage community involvement with the schools in such district.

(2) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the mandatory provisions of this section.

**SOURCES:** Laws, 1992, ch. 419, § 12; Laws, 2006, ch. 417, § 7; reenacted without change, Laws, 2009, ch. 345, § 9; reenacted and amended, Laws, 2009, ch. 445, § 5, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Section 5 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), amended this section. Section 9 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 5 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The first 2009 amendment (ch. 345), reenacted this section without change.

The second 2009 amendment (ch. 445), reenacted and amended the section by substituting “the highest levels of” for “Level 4 or 5” in (2).

**§ 37-7-342. Use of service or assistance dogs trained to alert to symptoms of illness or disability authorized in all district facilities.**

(1) The Legislature recognizes the necessity of school districts to provide reasonable accommodations to students and licensed employees of a school district who are diagnosed with debilitating illnesses or disabilities, including, but not limited to, diabetes and epilepsy.

(2) The school board of any school district shall authorize the use, in all district facilities and property, of service or assistance dogs which have been specifically trained to alert people of symptoms or conditions resulting from a debilitating illness or disability that threaten their health.

(3) In providing accommodations for students, the parent of a child with such illness or disability, the teacher or teachers of the student and the appropriate school administrator shall meet and develop a written 504 Plan consistent with the provisions of Chapter 23, Title 37, Mississippi Code of 1972, that would permit the use of service dogs in the school facility. Also, in providing accommodations for students, the teacher or teachers of the student and the appropriate school administrator shall develop a plan designed to educate other students of the appropriate behavior in the presence of such dogs, as well as the proper handling of such dogs in the presence of those students who may have an allergic reaction to the dog and the reasonable care



to be taken in efforts to prevent contact by students who are allergic with such dogs.

**SOURCES:** Laws, 2012, ch. 548, § 4, eff from and after July 1, 2012.

**§ 37-7-345. Authorization to establish regional educational service agency; agency to be organized as nonprofit tax exempt corporation; operation and management by public advisory board; board of directors; Executive Director; powers and responsibilities of educational service agency.**

(1) A regional educational service agency (ESA) may be established in a region of the state when twelve (12) or more school districts determine there are benefits and services that can be derived from the collective and collaborative formation of an agency for the purpose of pooling and leveraging resources for the common benefit of students, teachers, administrators and taxpayers. An educational service agency shall be incorporated in the State of Mississippi and organized under the laws of the State of Mississippi as a nonprofit corporation. The educational service agency shall obtain 501(c)(3) status with the Internal Revenue Service.

(2) The operation and management of the educational service agency shall be the responsibility of a public advisory board composed of the superintendents of schools or their designees from each participating school district.

(3) A board of directors shall be elected on an annual basis from the advisory board to oversee the day-to-day operations of the agency.

(4) The executive board shall hire an executive director to serve as the executive agent of the board of the regional educational service agency.

(5) The board of directors of a regional educational service agency shall have the authority to establish policies for the regional educational service to determine the programs and services to be provided, to employ staff, to prepare and expend the budget, to provide for financing programs and projects of the regional educational service agency, and to annually evaluate the performance of the agency. The board may purchase, hold, encumber and dispose of real property, in the name of the agency, for use as its office or for any educational service provided by the agency.

(6) The educational service agency is authorized and empowered to: develop, manage and provide support services and/or programs as determined by the needs of the local school district. Educational service agencies (ESAs) shall:

(a) Act primarily as service agencies in providing services and/or programs as identified and requested by member school districts (services may include, but are not limited to, professional development, instructional materials, educational technology, curriculum development and alternative educational programs);

(b) Provide for economy, efficiency and cost effectiveness in the cooperative delivery and purchase or lease of educational services, materials and

products (services may include, but are not limited to, purchasing cooperatives, insurance cooperatives, business manager services, auditing and accounting services, school safety/risk prevention, and data processing and student records);

(c) Provide administrative services (services may include, but are not limited to, communications/public information, employee background checks, grants management, printing/publications and internships);

(d) Provide educational services through leadership, research and development in elementary and secondary education;

(e) Act in a cooperative and supportive role, including contracting, with the Mississippi Department of Education, Mississippi Institutions of Higher Learning, Mississippi Community Colleges and other state educational organizations in the development and implementation of long-range plans, strategies and goals for the enhancement of educational opportunities in elementary and secondary education; and

(f) Serve, when appropriate and as funds become available, as a repository, clearinghouse and administrator of federal, state, local and private funds on behalf of school districts which choose to participate in special programs, projects or grants in order to enhance the quality of education in Mississippi schools.

(7) The State Board of Education shall have the authority to contract with and provide funds to regional educational service agencies for any education-related service.

**SOURCES:** Laws, 2004, ch. 408, § 1; Laws, 2009, ch. 344, § 1, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (6)(e) by substituting “Mississippi Institutions of Higher Learning” for “Mississippi Institutes of Higher Learning.” The Joint Committee ratified the correction at its July 22, 2010, meeting.

**Amendment Notes** — The 2009 amendment added (7).

**§ 37-7-346. Regional educational service agencies and State Department of Education to jointly develop a plan for increasing duties and responsibilities of the agencies.**

**Editor’s Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

ARTICLE 9.

ACQUISITION AND DISPOSITION OF DISTRICT PROPERTY.

Disposition of Property Not Needed for School Purposes ..... 37-7-451

## IN GENERAL

**§ 37-7-413. Powers included within power to construct, erect, and equip school buildings.**

## ATTORNEY GENERAL OPINIONS

Where the cost for a field house donated to a school district was secured, in part, by a personal note executed by private citizens, no statutory authority would em-

power the district to assume and pay the debt, even though it was incurred for the benefit of the district. Reed, Mar. 18, 2005, A.G. Op. 05-0108.

## DISPOSITION OF PROPERTY NOT NEEDED FOR SCHOOL PURPOSES

SEC.

37-7-455. Advertising of sale; conduct of sale; execution of conveyance; reservation of certain interests; disposal of personal property.

**§ 37-7-455. Advertising of sale; conduct of sale; execution of conveyance; reservation of certain interests; disposal of personal property.**

(1) Except as otherwise provided in subsections (2) and (3) of this section, all such land, buildings or other property shall be sold only after the receipt of sealed bids therefor after the time and place of making such sale has been duly advertised in some newspaper having a general circulation in the county in which the property is located once each week for three (3) consecutive weeks with the first publication to be made not less than fifteen (15) days prior to the date upon which such bids are to be received and opened. The property shall be sold to the highest and best bidder for cash, but the school board shall have the right to reject any and all bids. If the property is not sold pursuant to such advertisement, the school board, by resolution, may set a date for an open meeting of the school board to be held within sixty (60) days after the date upon which the bids were opened. At the meeting held pursuant to such resolution, the school board may sell by auction the property for a consideration not less than the highest sealed bid previously received pursuant to the advertisement. At the meeting, any interested party may bid for cash, and the property shall be sold to the highest and best bidder for cash, but the school board shall have the right to reject any and all bids. The school board may require a written confirmation of bids received at such called meeting before selling the property at auction, but it shall not be necessary that sealed bids be received before conducting the auction.

(2) As an alternative to the procedures established under subsection (1) of this section, the school board of a school district may elect, in its discretion, to sell by public auction any property, other than real property or buildings of the school district, which is not used for school or related school purposes and not needed in the operation of the schools, according to the procedure in Section 17-25-25.



(3) As an alternative to the procedures established under subsection (1) or (2) of this section, the county board of education of a county having a population in excess of ten thousand (10,000) according to the 2000 decennial census and in which U.S. Highway 45 intersects with Mississippi Highway 16, may elect, in its discretion, to transfer and sell the buildings of the school district and the real property upon which the buildings are located which are not used as school facilities or for school-related purposes and not needed in the operation of the schools, after advertising for and receiving competitive bids for the sale of such property. If any bid is offered by a nonprofit 501(c)(3) entity which has made substantial improvements to the buildings, the fair market value of the improvements shall be deemed to be consideration for, a part of, the bid offered by the entity. In this case, the school board shall enter a finding on its minutes that the nonprofit entity has made substantial improvements to the property and the property is no longer needed for school district purposes.

(4) When the sale of such property is authorized and approved by the school board, the president of the school board shall be authorized and empowered to execute a conveyance of the property upon the terms and for the consideration fixed by the board. The school board shall reserve unto the district all oil, gas and minerals in, on or under the land, and all proceeds derived from royalties upon the reserved mineral interests shall be used as provided by Section 37-7-457.

**SOURCES:** Codes, 1942, § 6328-43; Laws, 1953, Ex Sess, ch. 28, § 3; Laws, 1986, ch. 492, § 32; Laws, 2000, ch. 481, § 2; Laws, 2000, ch. 593, § 10; Laws, 2010, ch. 534, § 1; Laws, 2012, ch. 499, § 4, eff from and after July 1, 2012.

**Amendment Notes** — The 2010 amendment inserted “and (3)” in the first sentence in (1); added (3); and redesignated former (3) as (4), and therein, in the last sentence, deleted “at least an undivided one-half (½) nonparticipating royalty interest in” following “reserve unto the district” and “if the mineral interests of the district are less than the full and undivided ownership, the undivided royalty interest reserved by the district shall be reduced proportionately” from the end.

The 2012 amendment inserted “according to the procedure in Section 17-25-25” at the end of the first sentence and deleted the former last six sentences in (2), which pertained to auction procedures.

### ATTORNEY GENERAL OPINIONS

Where a city acquired property from a school district pursuant to Section 37-7-471, it may not sell the property directly to an individual, but must comply with

the procedure as outlined in Sections 37-7-479 and 37-7-455. Treadway, Feb. 2, 2006, A.G. Op. 05-0061.

DISPOSITION OF PROPERTY NOT NEEDED FOR SCHOOL PURPOSES;  
ADDITIONAL METHOD

**§ 37-7-471. Authorization of sale, lease, etc., of property not used for school purposes; terms, conditions and consideration of sale.**

**ATTORNEY GENERAL OPINIONS**

Upon making the appropriate findings of fact pursuant to Sections 37-7-471 through 37-7-483, a school board is empowered to enter into a lease with any of the persons or entities as stated in these sections as the board thinks best without a bidding process and may either sell or lease property for a nominal consideration provided that the instrument used for the transaction contains a reverter clause. Connell, Oct. 14, 2005, A.G. Op. 05-0459.

A school district may approve permits for individuals to place FEMA trailers on school property after making the findings required by Section 37-7-471. Sessoms, Dec. 9, 2005, A.G. Op. 05-0559.

Where a city acquired property from a school district pursuant to Section 37-7-471, it may not sell the property directly to an individual, but must comply with the procedure as outlined in Sections 37-7-479 and 37-7-455. Treadway, Feb. 2, 2006, A.G. Op. 05-0061.

A school district may convey property without monetary consideration provided that the instrument used for the transaction contains a reversionary clause stating that if the property ceases to be used for Section 37-7-473 uses for which it was conveyed, it will revert to the school district. Maples, May 19, 2006, A.G. Op. 06-0179.

**§ 37-7-477. Reverter provisions in instrument disposing of property where board retains no interest.**

**ATTORNEY GENERAL OPINIONS**

The critical factor in the transfer of school property is whether the interest retained can be considered an ownership interest. The ownership interest retained must be substantial and more than a nominal or insignificant interest. Treadway, June 26, 2006, A.G. Op. 06-0224.

When determining the terms of a lease where the school board retains an ownership interest, it is within the discretion of the board to require the lessee to maintain insurance. Donovan, Oct. 18, 2006, A.G. Op. 06-0478.

**§ 37-7-479. Conditions under which disposed of property may later be sold; disposition of proceeds of sale.**

**ATTORNEY GENERAL OPINIONS**

Where a city acquired property from a school district pursuant to Section 37-7-471, it may not sell the property directly to an individual, but must comply with

the procedure as outlined in Sections 37-7-479 and 37-7-455. Treadway, Feb. 2, 2006, A.G. Op. 05-0061.

## ARTICLE 13.

## SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS.

SEC.

37-7-711.

Filing of petition of nomination by candidate for board of trustees; determination of election results; runoff election.

**§ 37-7-711. Filing of petition of nomination by candidate for board of trustees; determination of election results; runoff election.**

In all such special municipal separate school districts which may be so organized, reorganized or reconstituted to embrace the entire county in which the majority of the inhabitants of the county reside outside the corporate limits of the municipality, the name of any qualified elector who is a candidate for the board of trustees of such special municipal separate school district, whether such person be a candidate for an unexpired term or for a full term, shall be placed on the ballot used in the elections, provided that the candidate files with the county election commissioners, not more than ninety (90) days and not less than thirty (30) days prior to the date of such general election, a petition of nomination signed by not less than one hundred fifty (150) qualified electors of the county. Provided, however, that in any such special municipal separate school district which embraces the entire county and which borders the Mississippi River and in which Interstate Highway 20 and United States Highway 61 intersect and having a population in excess of forty-seven thousand (47,000) according to the 1990 federal decennial census, the candidate shall be required to file a petition of nomination with the county election commissioners not less than sixty (60) days prior to the date of such general election, in addition to the other requirements prescribed herein.

The candidate in each election who receives the highest number of votes cast in the election shall be declared to have been elected.

**SOURCES:** Codes, 1942, § 6328-83; Laws, 1956, ch. 296, § 3; Laws, 2009, ch. 470, § 3; Laws, 2011, ch. 441, § 1, eff August 8, 2011 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2009, ch. 470, §§ 6 and 7 provide:

“SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or July 1, 2009, whichever is later.”

By letter dated August 28, 2009, the United States Attorney General interposed no objection to the change in the general election date provided for in Chapter 470, Laws of 2009. As for the proposed changes from a plurality vote to a majority vote



requirement for county school board members, for trustees for certain municipal separate school districts and for trustees for special municipal school districts, and the requirement that a runoff election be held three weeks after the election if no candidate received a majority, the U.S. Attorney General requested additional information from the state. After review of the information provided by the state, the U.S. Attorney General concluded that the state had not met its burden of showing that the proposed changes had neither a discriminatory purpose nor a discriminatory effect, and by letter dated March 24, 2010, objected to the proposed change from plurality to majority vote and the runoff requirement provided for in Chapter 470, Laws of 2009.

Chapter 441, Laws of 2011, included a version of this section that contained amendments that were in Section 3, Chapter 470, Laws of 2009. The United States Attorney General previously objected to the amendments to this section contained in Chapter 470, Laws of 2009, pursuant to the provisions of Section 5 of the Voting Rights Act of 1965. For this reason the version of Section 37-7-711 in Chapter 441, Laws of 2011, that contains the amendments in Section 3, Chapter 470, Laws of 2009, is not printed.

By letter dated August 8, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Laws of 2011, ch. 441.

**Amendment Notes** — The 2009 amendment inserted “(90),” “(30)” and “(150)” in the first sentence; substituted “a majority” for “the highest number” in the next-to-last sentence; and added the last sentence.

The 2011 amendment added the last sentence of the first paragraph of the section.

## ARTICLE 19.

### COMMISSION ON SCHOOL DISTRICT EFFICIENCY.

SEC.

37-7-1001. Establishment; purpose; findings and recommendations; membership.

### **§ 37-7-1001. Establishment; purpose; findings and recommendations; membership.**

The State Board of Education is hereby authorized to establish a Standing Commission on School District Efficiency. The commission shall meet and study the operations, rules, policies and regulations in school districts on an ongoing basis for the purpose of identifying opportunities to increase efficiencies, and to determine appropriate efficiency standards that should be considered for accreditation standards. The commission shall report annually its findings and recommendations to the State Board of Education, and the State Board of Education may make its report and recommendations annually to the Legislature seeking legislative support to achieve efficiencies in school districts. In establishing the Standing Commission on School District Efficiency the State Board of Education shall provide that the membership not be less than six (6) members. The State Board of Education shall appoint school district employees proficient in the areas of fiscal management, procurement, data processing or other fields of school business, with at least one (1) member being appointed from each congressional district. The commission shall meet on a date designated by the State Superintendent of Education and organize by selecting a chairman and adopt rules for conducting business. Members of the

commission shall serve without compensation, but may be reimbursed for necessary travel expenses from any available funds for attending official meetings of the commission. The State Department of Education shall provide necessary administrative and clerical support for the functions of the commission.

SOURCES: Laws, 2012, ch. 543, § 1, eff from and after July 1, 2012.

CHAPTER 9

District Superintendents, Principals, Teachers, and Other Employees

|                                           |          |
|-------------------------------------------|----------|
| In General .....                          | 37-9-1   |
| Education Employment Procedures Law ..... | 37-9-101 |

IN GENERAL

|          |                                                                                                                                                                                                                                         |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEC.     |                                                                                                                                                                                                                                         |
| 37-9-3.  | Employment of non-instructional employees [Repealed effective July 1, 2016].                                                                                                                                                            |
| 37-9-14. | General duties and powers of superintendent of school district.                                                                                                                                                                         |
| 37-9-16. | Repealed                                                                                                                                                                                                                                |
| 37-9-18. | Superintendent of schools to furnish school board with financial statement of receipts and disbursements; investigations and audits; contracts; review of audit report.                                                                 |
| 37-9-23. | Form and execution of contracts with superintendents, principals, licensed employees, and others anticipating graduation from approved programs; conditional contracts.                                                                 |
| 37-9-31. | Bond of principals.                                                                                                                                                                                                                     |
| 37-9-33. | Amount of salaries to be in compliance with adequate education program law; annual report on number of certificated and noncertificated employees receiving salary from both a school district and Public Employees' Retirement System. |
| 37-9-39. | Time of payment of salaries.                                                                                                                                                                                                            |
| 37-9-59. | Grounds and procedure for dismissal or suspension of licensed employee; attendance of different school system by child as ground for denying employment or reemployment of superintendent, principal or licensed employee.              |
| 37-9-77. | School Administrator Sabbatical Program.                                                                                                                                                                                                |
| 37-9-81. | Contracts with individuals with professional experience in academic, finance or other managerial and operational functions of schools to serve as consultants to the schools; certain individuals ineligible to serve as consultant.    |

§ 37-9-3. Employment of non-instructional employees [Repealed effective July 1, 2016].

Except as otherwise provided in Section 37-167-1, within the limits of the available funds, the superintendent of schools of a school district shall recommend to the school board thereof all noninstructional employees to be

employed and may prescribe the duties thereof. Compensation for such employees may be paid from any lawful funds.

**SOURCES:** Codes, 1942, § 6282-02; Laws, 1953, Ex Sess, ch. 20, § 2; Laws, 1986, ch. 492, § 66; Laws, 1987, ch. 307, § 11; Laws, 2004, ch. 357, § 1; Laws, 2010, ch. 540, § 3, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**Amendment Notes** — The 2010 amendment added the exception.

### ATTORNEY GENERAL OPINIONS

Section 37-9-3 does not require that school district noninstructional personnel be approved for employment annually. Rhodes, Apr. 28, 2006, A.G. Op. 06-0133.

### § 37-9-14. General duties and powers of superintendent of school district.

(1) It shall be the duty of the superintendent of schools to administer the schools within his district and to implement the decisions of the school board.

(2) In addition to all other powers, authority and duties imposed or granted by law, the superintendent of schools shall have the following powers, authority and duties:

(a) To enter into contracts in the manner provided by law with each assistant superintendent, principal and teacher of the public schools under his supervision, after such assistant superintendent, principal and teachers have been selected and approved in the manner provided by law.

(b) To enforce in the public schools of the school district the courses of study provided by law or the rules and regulations of the State Board of Education, and to comply with the law with reference to the use and distribution of free textbooks.

(c) To administer oaths in all cases to persons testifying before him relative to disputes relating to the schools submitted to him for determination, and to take testimony in such cases as provided by law.

(d) To examine the monthly and annual reports submitted to him by principals and teachers for the purpose of determining and verifying the accuracy thereof.

(e) To preserve all reports of superintendents, principals, teachers and other school officers, and to deliver to his successor or clerk of the board of supervisors all money, property, books, effects and papers.

(f) To prepare and keep in his office a map or maps showing the territory embraced in his school district, to furnish the county assessor with a copy of such map or maps, and to revise and correct same from time to time as changes in or alterations of school districts may necessitate.

(g) To keep an accurate record of the names of all of the members of the school board showing the districts for which each was elected or appointed, the post office address of each, and the date of the expiration of his term of office. All official correspondence shall be addressed to the school board, and



notice to such members shall be regarded as notice to the residents of the district, and it shall be the duty of the members to notify such residents.

(h) To deliver in proper time to the assistant superintendents, principals, teachers and board members such forms, records and other supplies which will be needed during the school year as provided by law or any applicable rules and regulations, and to give to such individuals such information with regard to their duties as may be required.

(i) To make to the school board reports for each scholastic month in such form as the school board may require.

(j) To distribute promptly all reports, letters, forms, circulars and instructions which he may receive for the use of school officials.

(k) To keep on file and preserve in his office all appropriate information concerning the affairs of the school district.

(l) To visit the schools of his school district in his discretion, and to require the assistant superintendents, principals and teachers thereof to perform their duties as prescribed by law.

(m) To observe such instructions and regulations as the school board and other public officials may prescribe, and to make special reports to these officers whenever required.

(n) To keep his office open for the transaction of business upon the days and during the hours to be designated by the school board.

(o) To make such reports as are required by the State Board of Education.

(p) To make an enumeration of educable children in his school district as prescribed by law.

(q) To keep in his office and carefully preserve the public school record provided, to enter therein the proceedings of the school board and his decision upon cases and his other official acts, to record therein the data required from the monthly and term reports of principals and teachers, and from the summaries of records thus kept.

(r) To delegate student disciplinary matters to appropriate school personnel.

(s) To make assignments to the various schools in the district of all noninstructional and nonlicensed employees and all licensed employees, as provided in Sections 37-9-15 and 37-9-17, and to make reassignments of such employees from time to time; however, a reassignment of a licensed employee may only be to an area in which the employee has a valid license issued by the State Department of Education. Upon request from any employee transferred, such assignment shall be subject to review by the school board.

(t) To employ substitutes for licensed employees, regardless of whether or not such substitute holds the proper license, subject to such reasonable rules and regulations as may be adopted by the State Board of Education.

(u) To comply in a timely manner with the compulsory education reporting requirements prescribed in Section 37-13-91(6).

(v) To perform such other duties as may be required of him by law.

(w) To notify, in writing, the parent, guardian or custodian, the youth court and local law enforcement of any expulsion of a student for criminal activity as defined in Section 37-11-29.

(x) To notify the youth court and local law enforcement agencies, by affidavit, of the occurrence of any crime committed by a student or students upon school property or during any school-related activity, regardless of location and the identity of the student or students committing the crime.

(y) To employ and dismiss noninstructional and nonlicensed employees as provided by law.

(z) To temporarily employ licensed and nonlicensed employees to fill vacancies which may occur from time to time without prior approval of the board of trustees, provided that the board of trustees is notified of such employment and the action is ratified by the board at the next regular meeting of the board. A school district may pay a licensed employee based on the same salary schedule as other contracted licensed employees in the district until school board action, at which time a licensed employee approved by the school board enters a contract. If the board, within thirty (30) days of the date of employment of such employee under this subsection, takes action to disapprove of the employment by the superintendent, then the employment shall be immediately terminated without further compensation, notice or other employment rights with the district. The terminated employee shall be paid such salary and fringe benefits that such employee would otherwise be entitled to from the date of employment to the date of termination for days actually worked.

(3) All funds to the credit of a school district shall be paid out on pay certificates issued by the superintendent upon order of the school board of the school district properly entered upon the minutes thereof, and all such orders shall be supported by properly itemized invoices from the vendors covering the materials and supplies purchased. All such orders and the itemized invoices supporting same shall be filed as a public record in the office of the superintendent for a period of five (5) years. The superintendent shall be liable upon his official bond for the amount of any pay certificate issued in violation of the provisions of this section. The school board shall have the power and authority to direct and cause warrants to be issued against such district funds for the purpose of refunding any amount of taxes erroneously or illegally paid into such fund when such refund has been approved in the manner provided by law.

(4) The superintendent of schools shall be special accounting officer and treasurer with respect to any and all district school funds for his school district. He or his designee shall issue all warrants without the necessity of registration thereof by the chancery clerk. Transactions with the depositories and with the various tax collecting agencies which involve school funds for such school district shall be with the superintendent of schools, or his designee.

(5) The superintendent of schools will have no responsibility with regard to agricultural high school and junior college funds.

All agricultural high school and junior college funds shall be handled and expended in the manner provided for in Sections 37-29-31 through 37-29-39.

(6) It shall be the duty of the superintendent of schools to keep and preserve the minutes of the proceedings of the school board.

(7) The superintendent of schools shall maintain as a record in his office a book or a computer printout in which he shall enter all demands, claims and accounts paid from any funds of the school district. The record shall be in a form to be prescribed by the State Auditor. All demands, claims and accounts filed shall be preserved by the superintendent of schools as a public record for a period of five (5) years. All claims found by the school board to be illegal shall be rejected or disallowed. To the extent allowed by board policy, all claims which are found to be legal and proper may be paid and then ratified by the school board at the next regularly scheduled board meeting, as paid by the superintendent of schools. All claims as to which a continuance is requested by the claimant and those found to be defective but which may be perfected by amendment shall be continued. The superintendent of schools shall issue a pay certificate against any legal and proper fund of the school district in favor of the claimant in payment of claims. The provisions of this section, however, shall not be applicable to the payment of salaries and applicable benefits, travel advances, amounts due private contractors or other obligations where the amount thereof has been previously approved by a contract or by an order of the school board entered upon its minutes, or paid by board policy, or by inclusion in the current fiscal year budget, and all such amounts may be paid by the superintendent of schools by pay certificates issued by him against the legal and proper fund without allowance of a specific claim therefor as provided in this section, provided that the payment thereof is otherwise in conformity with law.

**SOURCES:** Laws, 1986, ch. 492, § 61; Laws, 1987, ch. 307, § 8; Laws, 1991, ch. 539, § 1; Laws, 1994, ch. 636, § 1; Laws, 1994, ch. 607, § 13; Laws, 1995, ch. 426, § 1; Laws, 1999, ch. 358, § 1; Laws, 2005, ch. 394, § 2; Laws, 2008, ch. 383, § 1, eff from and after passage (approved Mar. 31, 2008.)

**Joint Legislative Committee Note** — Paragraph (w) of subsection (2) of this section contained an incorrect reference to “Section 37-11-92.” In 2007, the reference was changed to “Section 37-11-29” at the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation. The correction was ratified by the Joint Committee, pursuant to Section 1-1-109, at the Committee’s August 5, 2008, meeting.

**Amendment Notes** — The 2008 amendment added (2)(z).

## JUDICIAL DECISIONS

### 1. In general.

Circuit court erred in denying a school district’s motion for summary judgment as to a mother’s negligence claim because the Mississippi Tort Claims Act, Miss Code Ann. § 11-46-9(1)(d), operated to shield the district and its coaches and employees from any liability for the death of her son, who allegedly suffered from

heat stroke during football practice, since nothing in the record indicated that the district and/or the football coaches, or any district employee or staff member, violated any statute, ordinance, or regulation concerning conducting football practice, and the conduct at issue constituted discretionary behavior; Miss. Code Ann. § 37-9-14 sets forth the responsibilities



and powers of the superintendent, and in no way does this statute imply any duties pertaining to the oversight of athletic practices. *Covington County Sch. Dist. v. Magee*, 29 So. 3d 1 (Miss. 2010).

Mississippi Education Employment Procedures Law did not apply to a case where a former employee was transferred to an alternative school after teaching biology at a junior high and high school because contract that the employee signed stipulated that the school district had the authority to transfer her, a reassignment was permitted under Miss. Code Ann. § 37-9-14(2)(s), and the reassignment was according to educator licensure guidelines in Mississippi. *Winters v. Calhoun County Sch. Dist.*, 990 So. 2d 238 (Miss. Ct. App. 2008).

Superintendent received the photocopy of the claimed weapon and made the determination that the nail file device was a knife and the student was to be suspended; even if the school district could have placed its power to make the ultimate decision regarding the disciplinary action in the superintendent, her decision to expel the student by relying solely upon the report from the Appeals Committee and a faxed photocopy of an item that did not match the description given by a witness was arbitrary and capricious. *Hinds County Sch. Dist. Bd. of Trs. v. R.B.*, 10 So. 3d 495 (Miss. Ct. App. 2007), reversed by 10 So. 3d 387, 2008 Miss. LEXIS 606 (Miss. 2008).

### ATTORNEY GENERAL OPINIONS

A board of education does not have the authority to direct a superintendent of education as to the person who shall keep notes from which minutes of board meetings are prepared. *Lee*, July 1, 2005, A.G. Op. 05-0603.

Section 37-9-14 (2)(y) does not permit the superintendent of education to renew

an "At-Will Agreement" for coaches and to make salary payments according to the Agreement for the ensuing school year without affirmative action by the board of education. *Kopf*, Aug. 2, 2005, A.G. Op. 05-0349.

### § 37-9-16. Repealed.

Repealed by Laws of 2009, ch. 516, § 10, effective on or after passage (April 8, 2009).

§ 37-9-16. [Laws, 2008, ch. 527, § 1, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the enactment of this section).]

**Editor's Note** — Former § 37-9-16 provided for the removal of appointed or elected school superintendents of underperforming school districts under certain circumstances.

Laws of 2008, ch. 527, did not receive preclearance under Section 5 of the Voting Rights Act of 1965, as amended and extended.

**§ 37-9-17. Selection of licensed employees or non-instructional employees to be employed for school year; increase in compensation of certain licensed employees; fingerprinting and criminal background checks for applicants.**

**JUDICIAL DECISIONS**

**5. Particular grounds for employment action.**

In a case in which a school district (District) appealed a decision by a chancery court finding that the school board's (Board) decision not to uphold a superintendent's recommendation to renew appellee employee's contract was not supported by any substantial evidence and was arbitrary and capricious, the District argued that the Board's decision was supported by substantial evidence and was

not arbitrary and capricious. The reason given for the non-renewal of the employee's contract was that the Board wanted the position to be full time in order to better serve the students; although the Board could have been more detailed in its reasoning, it had stated a good reason for the non-renewal of the employee's contract, and that was all that was required under Miss. Code Ann. § 37-9-17(1). *Smith County Sch. Dist. v. Campbell*, 18 So. 3d 335 (Miss. Ct. App. 2009).

**§ 37-9-18. Superintendent of schools to furnish school board with financial statement of receipts and disbursements; investigations and audits; contracts; review of audit report.**

(1) The superintendent of schools shall furnish to the school board a financial statement of receipts and disbursements, by funds, on or before the last working day of the following month covering the prior month. The school board shall be authorized to investigate and audit all financial records of the superintendent of schools at any and all times.

(2) The State Auditor shall audit the financial records of school districts in accordance with Section 7-7-211(e). The State Auditor shall give reasonable notice to school districts regarding the times during which the State Auditor will perform such audits. In any fiscal year in which the State Auditor is not scheduled to perform an audit, the school board shall cause all the financial records of the superintendent of schools to be audited in accordance with Section 7-7-211(e). If the school board so elects by resolution adopted each year, the audit shall be performed by the State Auditor. Contracts for the audit of public school districts shall be let by the school board in the manner prescribed by the State Auditor. The audit shall be conducted in accordance with generally accepted auditing standards and generally accepted accounting principles, and the report presented thereon shall be in accordance with generally accepted accounting principles. If the Auditor's opinion on the general purpose financial statements is a disclaimer, as that term is defined by generally accepted auditing standards, or if the State Auditor determines the existence of serious financial conditions in the district, the State Auditor shall immediately notify the State Board of Education. Upon receiving the notice, the State Superintendent of Public Education shall direct the school district to immediately cease all expenditures until a financial advisor is appointed by the state

superintendent. However, if the disclaimer is a result of conditions caused by Hurricane Katrina 2005 and applies to fiscal years 2005 and/or 2006, then the Superintendent of Education may appoint a financial advisor, and may direct the school district to immediately cease all expenditures until a financial advisor is appointed. The financial advisor shall be an agent of the State Board of Education and shall be a certified public accountant or a qualified business officer. The financial advisor shall, with the approval of the State Board of Education:

(a) Approve or disapprove all expenditures and all financial obligations of the district;

(b) Ensure compliance with any statutes and State Board of Education rules or regulations concerning expenditures by school districts;

(c) Review salaries and the number of all district personnel and make recommendations to the local school board of any needed adjustments. Should such recommendations necessitate the reduction in local salary supplement, such recommended reductions shall be only to the extent which will result in the salaries being comparable to districts similarly situated, as determined by the State Board of Education. The local school board, in considering either a reduction in personnel or a reduction in local supplements, shall not be required to comply with the time limitations prescribed in Sections 37-9-15 and 37-9-105 and, further, shall not be required to comply with Sections 37-19-11 and 37-19-7(1) in regard to reducing local supplements and the number of personnel;

(d) Work with the school district's business office to correct all inappropriate accounting procedures and/or uses of school district funds and to prepare the school district's budget for the next fiscal year;

(e) Report frequently to the State Board of Education on the corrective actions being taken and the progress being made in the school district. The financial advisor shall serve until such time as corrective action and progress is being made in such school district as determined by the State Board of Education with the concurrence of the State Auditor, or until such time as an interim conservator is assigned to such district by the State Board of Education under Section 37-17-6. The school district shall be responsible for all expenses associated with the use of the financial advisor. If the audit report reflects a failure by the school district to meet accreditation standards, the State Board of Education shall proceed under Section 37-17-6; and

(f) If a financial advisor is appointed to a school district in accordance with this subsection and it is determined by the financial advisor and/or any other official of the school district that an audit by a certified public accountant for that district was deficient in any manner, the financial advisor and/or any other official of the school district shall, within thirty (30) days, refer the matter to the State Board of Public Accountancy for follow up and possible disciplinary action. Any disciplinary action by the State Board of Public Accountancy with regard to the certified public accountant shall, within thirty (30) days after notifying such certified public accountant, be reported to the Office of State Auditor.



(3)(a) When conducting an audit of a public school district, the State Auditor shall test to insure that the school district is complying with the requirements of Section 37-61-33(3)(a)(iii) relating to classroom supply funds. The audit must include a report of all classroom supply funds carried over from previous years. Based upon the audit report, the State Auditor shall compile a report on the compliance or noncompliance by all school districts with the requirements of Section 37-61-33(3)(a)(iii), which report must be submitted to the Chairmen of the Education and Appropriations Committees of the House of Representatives and Senate.

(b) When conducting an audit of a public school district, the State Auditor shall test to insure correct and appropriate coding at the function level. The audit must include a report showing correct and appropriate functional level expenditure codes in expenditures by the school district. Compliance standards for this audit provision shall be established by the Office of the State Auditor. Based upon the audit report, the State Auditor shall compile a report on the compliance or noncompliance by all public school districts with correct and appropriate coding at the function level, which report must be submitted to the Chairmen of the Education and Appropriations Committees of the House of Representatives and Senate.

(4) In the event the State Auditor does not perform the audit examination, then the audit report of the school district shall be reviewed by the State Auditor for compliance with applicable state laws before final payment is made on the audit by the school board. All financial records, books, vouchers, cancelled checks and other financial records required by law to be kept and maintained in the case of municipalities shall be faithfully kept and maintained in the office of the superintendent of schools under the same provisions and penalties provided by law in the case of municipal officials.

**SOURCES:** Laws, 1986, ch. 492, § 202; Laws, 1987, ch. 307, § 12; Laws, 1992, ch. 524, § 3, 1996, ch. 302, § 6; Laws, 1997, ch. 386, § 1; Laws, 2002, ch. 403, § 1; Laws, 2005, 5th Ex Sess, ch. 5, § 1; Laws, 2006, ch. 504, § 9; Laws, 2006, ch. 550, § 2; brought forward without change, Laws, 2009, ch. 345, § 10; Laws, 2009, ch. 516, § 7, eff from and after passage (approved Apr. 8, 2009.)

**Joint Legislative Committee Note** — Section 10 of ch. 345, Laws of 2009, effective from and after June 30, 2009 (approved March 16, 2009), brought this section forward without change. Section 7 of ch. 516, Laws of 2009, effective upon passage (approved April 8, 2009), amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the July 13, 2009, meeting of the Committee.

**Editor's Note** — Laws of 2009, ch. 516 § 1 provides:

“SECTION 1. This act shall be entitled and may be cited as the “Children First Act of 2009.”

Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

**Amendment Notes** — The first 2009 amendment (ch. 345) brought this section forward without change.

The second 2009 amendment (ch. 516), in the introductory paragraph of (2), deleted “in his discretion” following “The State Auditor” in the first sentence, added “in accordance with Section 7-7-211(e)” at the end of the first and third sentences, and substituted “the State Auditor will perform” for “he will perform”; added (2)(f); inserted “State” preceding “Auditor” the first time it appears in (3)(a); and made minor stylistic changes.

### ATTORNEY GENERAL OPINIONS

A financial advisor may determine that an existing local plan for a reduction in force is inadequate to address the immediate financial need and merits suspension. Fortenberry, Nov. 27, 2006, A.G. Op. 06-0515.

Although the recommendations are not mandatory in nature, a financial advisor

still retains ultimate authority to approve and disapprove all expenditures. A board's failure to follow a financial advisor's recommendations could certainly constitute a sound basis for disapproval of an expenditure or financial obligation. Fortenberry, Nov. 27, 2006, A.G. Op. 06-0515.

### **§ 37-9-23. Form and execution of contracts with superintendents, principals, licensed employees, and others anticipating graduation from approved programs; conditional contracts.**

The superintendent shall enter into a contract with each assistant superintendent, principal, licensed employee and person anticipating graduation from an approved teacher education program or the issuance of a proper license before October 15 or February 15, as the case may be, who is elected and approved for employment by the school board. Such contracts shall be in such form as shall be prescribed by the State Board of Education and shall be executed in duplicate with one (1) copy to be retained by the appropriate superintendent and one (1) copy to be retained by the principal, licensed employee or person recommended for a licensed position contracted with. The contract shall show the name of the district, the length of the school term, the position held (whether an assistant superintendent, principal or licensed employee), the scholastic years which it covers, the total amount of the annual salary and how same is payable. The amount of salary to be shown in such contract shall be the amount which shall have been fixed and determined by the school board, but, as to the licensed employees paid in whole or in part with adequate education program funds, such salary shall not be less than that required under the provisions of Chapter 19 of this title. Beginning with the 2010-2011 school year, the contract shall include a provision allowing the school district to reduce the state minimum salary by a pro rata daily amount in order to comply with the school district employee furlough provisions of Section 37-7-308, and shall include a provision which conditions the payment of such salary upon the availability of adequate education funds provided for salaries. The contract entered into with any person recommended for a licensed position who is anticipating either graduation from an approved

teacher education program before September 1 or December 31, as the case may be, or the issuance of a proper license before October 15 or February 15, as the case may be, shall be a conditional contract and shall include a provision stating that the contract will be null and void if, as specified in the contract, the contingency upon which the contract is conditioned has not occurred. If any superintendent, other than those elected, principal, licensed employee or person recommended for a licensed position who has been elected and approved shall not execute and return the contract within ten (10) days after same has been tendered to him for execution, then, at the option of the school board, the election of the licensed employee and the contract tendered to him shall be void and of no effect.

**SOURCES:** Codes, 1942, § 6282-13; Laws, 1953, Ex Sess, ch. 20, § 13; Laws, 1981, ch. 499, § 7; Laws, 1986, ch. 492, § 70; Laws, 1997, ch. 545, § 10; Laws, 1998, ch. 408, § 3; Laws, 2010, ch. 486, § 6, eff from and after passage (approved Apr. 7, 2010.)

**Amendment Notes** — The 2010 amendment substituted “adequate education program funds” for “minimum education program funds” in the fourth sentence, and added the fifth sentence.

## JUDICIAL DECISIONS

### 2. Applicability of EEPL.

In a case in which the sole remaining issue was whether the Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. § 37-9-101 et seq., applied to a teacher’s head basketball coach contract with a school district and both parties filed cross-motions for summary judgment, Mississippi law permitted the

separate coaching contract at issue, which was not in the form set out in Miss. Code Ann. § 37-9-23 and was exempted from the EEPL. *Ladner v. Hancock County Sch. Dist.*, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 30490 (S.D. Miss. Apr. 7, 2008), affirmed by 292 Fed. Appx. 346, 2008 U.S. App. LEXIS 19467 (5th Cir. Miss. 2008).

## ATTORNEY GENERAL OPINIONS

A school district may set an annual salary contingent on final action by the Legislature and the Governor as to K-12 educational funding for Fiscal Year 2006

and issue teacher contracts pursuant to Section 37-9-23 which include this contingency. *Piazza*, Apr. 8, 2005, A.G. Op. 05-0157.

### § 37-9-31. Bond of principals.

All school principals and attendance center principals shall furnish good and sufficient surety bonds in like manner as required of superintendents. The amount of such bonds shall be not less than Fifty Thousand Dollars (\$50,000.00), with sufficient surety.

The premium upon said bond shall be paid from the maintenance funds of the district served by such principal. Such bond shall be payable, conditioned and approved in the manner provided by law.

All such bonds shall be filed and recorded in the office of the clerk of the chancery court of the county in which the school district is located.



**SOURCES:** Codes, 1942, § 6282-04.5; Laws, 1960, ch. 318, §§ 1-5; Laws, 1986, ch. 492, § 73; Laws, 2009, ch. 467, § 15, eff from and after July 1, 2009.

**Amendment Notes** — The 2009 amendment substituted “shall be not less than Fifty Thousand Dollars (\$50,000.00)” for “shall be Twenty-five Thousand Dollars (\$25,000.00)” in the last sentence of the first paragraph.

**§ 37-9-33. Amount of salaries to be in compliance with adequate education program law; annual report on number of certificated and noncertificated employees receiving salary from both a school district and Public Employees’ Retirement System.**

(1) In employing and contracting with appointed superintendents, principals and certificated employees, the school board shall in all cases determine whether the amount of salary to be paid such superintendent, principals and certificated employees is in compliance with the provisions of the adequate education program. No contract shall be entered into where the salary of a superintendent, principal or certificated employee is to be paid, in whole or in part, from adequate education program funds except where the requirements of said chapter as to the amount of such salary are fully met. Nothing herein shall be construed, however, to prohibit any school district from increasing the salaries of appointed superintendents, principals and certificated employees above the amounts fixed by said chapter, provided that the amount of such increase is paid from funds available to such district other than adequate program funds. Provided further, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided in Section 37-19-7 shall not be applicable to any such retired certificated employee. Nothing herein shall be construed to prohibit any school district from complying with the school district employee furlough provisions of Section 37-7-308.

(2) Each school district shall provide an annual report to the State Department of Education on the number of certificated and noncertificated employees receiving a salary from the school district who are also receiving retirement benefits from the Public Employees’ Retirement System. This report shall include the name of the employee(s), the hours per week for which the employee is under contract and the services for which the employee is under contract. Said required annual report shall be in a form and deadline promulgated by the State Board of Education.

**SOURCES:** Codes, 1942, § 6282-10; Laws, 1953, Ex Sess, ch. 20, § 10; Laws, 1960, ch. 300, § 4; Laws, 1986, ch. 492, § 74; Laws, 1997, ch. 545, § 13; Laws, 1997, ch. 612, § 28; Laws, 2009, ch. 508, § 1; Laws, 2010, ch. 486, § 7, eff from and after passage (approved Apr. 7, 2010.)

**Amendment Notes** — The 2009 amendment added (2), and designated the former provisions of the section as (1); and added the last sentence of (1).

The 2010 amendment added the last sentence in (1); and made minor stylistic changes.

### § 37-9-39. Time of payment of salaries.

Salary or wages paid to any employee of any school shall be paid on a basis as determined by the local school board of each school district consistent with the provisions of Section 37-151-103(1), except for December, when salaries or wages shall be paid on December 15 or the next business day after that date. Salaries or wages shall be paid at a minimum on a monthly basis. Any school employee whose employment ends during a school term, regardless of the reason(s) the employment ended, shall be paid salary or wages only for that portion of the school term that employee actually worked. Nothing in this section shall be construed to entitle any employee to payment of salary or wages when no work has been performed.

**SOURCES:** Codes, 1942, § 6282-14; Laws, 1953, Ex Sess, ch. 20, § 14; Laws, 1955, Ex Sess, ch. 53; Laws, 1974, ch. 455; Laws, 1986, ch. 492, § 76; Laws, 1987, ch. 307, § 13; Laws, 1990, ch. 398, § 1; Laws, 1992, ch. 524, § 5; Laws, 1997, ch. 545, § 15; Laws, 2003, ch. 546, § 3; Laws, 2012, ch. 543, § 6, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. The code reference in the first sentence was updated. The Joint Committee ratified the correction at its August 16, 2012, meeting.

**Amendment Notes** — The 2012 amendment, in the first sentence, inserted “consistent with the provisions of Section 37-157-103(1)” and substituted “shall be paid on December 15 or the next business day after that date” for “shall be paid by the last working day.”

### § 37-9-59. Grounds and procedure for dismissal or suspension of licensed employee; attendance of different school system by child as ground for denying employment or reemployment of superintendent, principal or licensed employee.

For incompetence, neglect of duty, immoral conduct, intemperance, brutal treatment of a pupil or other good cause the superintendent of schools may dismiss or suspend any licensed employee in any school district. Before being so dismissed or suspended any licensed employee shall be notified of the charges against him and he shall be advised that he is entitled to a public hearing upon said charges. Provided, however, that a school superintendent whose employment has been terminated under this section shall not have the right to request a hearing before the school board or a hearing officer. In the event the continued presence of said employee on school premises poses a potential threat or danger to the health, safety or general welfare of the students, or, in the discretion of the superintendent, may interfere with or

cause a disruption of normal school operations, the superintendent may immediately release said employee of all duties pending a hearing if one is requested by the employee. In the event a licensed employee is arrested, indicted or otherwise charged with a felony by a recognized law enforcement official, the continued presence of the licensed employee on school premises shall be deemed to constitute a disruption of normal school operations. The school board, upon a request for a hearing by the person so suspended or removed shall set a date, time and place for such hearing which shall be not sooner than five (5) days nor later than thirty (30) days from the date of the request. The procedure for such hearing shall be as prescribed for hearings before the board or hearing officer in Section 37-9-111. From the decision made at said hearing, any licensed employee shall be allowed an appeal to the chancery court in the same manner as appeals are authorized in Section 37-9-113. Any party aggrieved by action of the chancery court may appeal to the Mississippi Supreme Court as provided by law. In the event that a licensed employee is immediately relieved of duties pending a hearing, as provided in this section, said employee shall be entitled to compensation for a period up to and including the date that the initial hearing is set by the school board, in the event that there is a request for such a hearing by the employee. In the event that an employee does not request a hearing within five (5) calendar days of the date of the notice of discharge or suspension, it shall constitute a waiver of all rights by said employee and such discharge or suspension shall be effective on the date set out in the notice to the employee.

The school board of every school district in this state is hereby prohibited from denying employment or reemployment to any person as a superintendent, principal or licensed employee, as defined in Section 37-19-1, or as a noninstructional personnel, as defined in Section 37-9-1, for the single reason that any eligible child of such person does not attend the school system in which such superintendent, principal, licensed employee or noninstructional personnel is employed.

**SOURCES:** Codes, 1942, § 6282-26; Laws, 1953, Ex Sess, ch. 20, § 26; Laws, 1974, ch. 459; Laws, 1978, ch. 311, § 1; Laws, 1986, ch. 492, § 82; Laws, 1987, ch. 307, § 14; Laws, 1997, ch. 545, § 21; Laws, 2012, ch. 440, § 3, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment added the third sentence in the first paragraph.

**Cross References** — Section 37-9-111 inapplicable to superintendent whose employment was terminated by school board under this section, see § 37-9-111.



## JUDICIAL DECISIONS

1. Suspension and removal—In general.
3. —Principals.

### 1. Suspension and removal—In general.

Former high school principal failed to show a breach of contract by a school district, a school board, and various board members and employees because there was good cause for his termination due to his incompetence and neglect of duty as to his handling of the school's records and scheduling. *Floyd v. Amite County Sch. Dist.*, 581 F.3d 244 (5th Cir. 2009).

### 3. —Principals.

Former school principal's Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., race discrimination claims, which the principal did not raise during his discharge proceedings and appeal were not barred by res judicata; although the chancery court could consider under Miss. Code Ann. § 37-9-113 whether the principal's rights had been violated, the chan-

cery court was limited to the record that was made before the board, and the principal could not have been expected to raise before the board his claim that the board was motivated by discriminatory animus when it upheld the principal's discharge. *Floyd v. Amite County Sch. Dist.*, 495 F. Supp. 2d 619 (S.D. Miss. 2007).

Former school principal's Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., race discrimination claims, which the principal did not raise during his discharge proceedings and appeal were not barred by collateral estoppel because the race discrimination claims were not raised in the discharge proceedings, and although a court of appeals found that the school superintendent and board of education had three legitimate reasons for discharging the principal, the principal could attempt to show that those reasons were pretextual. *Floyd v. Amite County Sch. Dist.*, 495 F. Supp. 2d 619 (S.D. Miss. 2007).

## ATTORNEY GENERAL OPINIONS

Section 37-9-59 provides sufficient authority for a school board to terminate an appointed superintendent following a hearing, if requested by the superintendent, conducted by the board at which the

proper determinations required by the statute and consistent with the facts are made. *Sanders*, Nov. 4, 2005, A.G. Op. 05-0540.

## § 37-9-69. General duties of superintendents, principals and teachers.

## JUDICIAL DECISIONS

3. Duty to protect trespassers.
4. Disorderly conduct.

### 3. Duty to protect trespassers.

Because a decedent was not invited to use a school district bus parking lot, he was a trespasser, and when he left the lot to attempt to cross a public road, he relinquished that status. Thus, the district owed the decedent no duty under Miss. Code Ann. §§ 37-9-69 and 37-7-301 when he stepped off district property and was struck by an oncoming motorist while crossing the road. *Gammel v. Tate County*

*Sch. Dist.*, 995 So. 2d 853 (Miss. Ct. App. 2008).

### 4. Disorderly conduct.

Because the proximate cause of a minor's injuries was not the conduct of surfing in the back of a pickup truck, but merely the riding in the back of a pickup truck, which could not be considered disorderly conduct within the meaning of Miss. Code Ann. § 37-9-69, the minor could not maintain an action against a school district for injuries he sustained when he fell out of the pickup truck while

riding to football practice. *Strange v. Itawamba County Sch. Dist.*, 9 So. 3d 1187 (Miss. Ct. App. 2009).

### **§ 37-9-75. Strikes by teachers.**

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

### **§ 37-9-77. School Administrator Sabbatical Program.**

(1) There is established the Mississippi School Administrator Sabbatical Program which shall be available to licensed teachers employed in Mississippi school districts for not less than three (3) years, for the purpose of allowing such teachers to become local school district administrators under the conditions set forth in this section. The State Board of Education, in coordination with the Board of Trustees of State Institutions of Higher Learning, shall develop guidelines for the program. Application shall be made to the State Department of Education for the Mississippi School Administrator Sabbatical Program by qualified teachers meeting the criteria for a department-approved administration program and who have been recommended by the local school board. Administration programs that are eligible for the administrator sabbatical program shall be limited to those that have been approved by the department by the January 1 preceding the date of admission to the program. Admission into the program shall authorize the applicant to take university course work and training leading to an administrator's license.

(2) The salaries of the teachers approved for participation in the administrator sabbatical program shall be paid by the employing school district from nonminimum education program funds. However, the State Department of Education shall reimburse the employing school districts for the cost of the salaries and paid fringe benefits of teachers participating in the administrator sabbatical program for one (1) contract year. Reimbursement shall be made in accordance with the then current minimum education program salary schedule under Section 37-19-7, except that the maximum amount of the reimbursement from state funds shall not exceed the minimum education program salary for a teacher holding a Class A license and having five (5) years' experience. The local school district shall be responsible for that portion of a participating teacher's salary attributable to the local supplement and for any portion of the teacher's salary that exceeds the maximum amount allowed for reimbursement from state funds as provided in this subsection, and the school board may not reduce the local supplement payable to that teacher. Any reimbursements made by the State Department of Education to local school districts under this section shall be subject to available appropriations and may be made only to school districts determined by the State Board of Education as being in need of administrators.

(3) Such teachers participating in the program on a full-time basis shall continue to receive teaching experience and shall receive the salary prescribed

in Section 37-19-7, including the annual experience increments. Such participants shall be fully eligible to continue participation in the Public Employees' Retirement System and the Public School Employees Health Insurance Plan during the time they are in the program on a full-time basis.

(4) As a condition for participation in the School Administrator Sabbatical Program, such teachers shall agree to employment as administrators in the sponsoring school district for not less than five (5) years following completion of administrator licensure requirements. Any person failing to comply with this employment commitment in any required school year, unless the commitment is deferred as provided in subsection (5) of this section, shall immediately be in breach of contract and become liable to the State Department of Education for that amount of his salary and paid fringe benefits paid by the state while the teacher was on sabbatical, less twenty percent (20%) of the amount of his salary and paid fringe benefits paid by the state for each year that the person was employed as an administrator following completion of the administrator licensure requirements. In addition, the person shall become liable to the local school district for any portion of his salary and paid fringe benefits paid by the local school district while the teacher was on sabbatical that is attributable to the local salary supplement or is attributable to the amount that exceeds the maximum amount allowed for reimbursement from state funds as provided in subsection (2) of this section, less twenty percent (20%) of the amount of his salary and paid fringe benefits paid by the school district for each year that the person was employed as an administrator following completion of the administrator licensure requirements. Interest on the amount due shall accrue at the current Stafford Loan rate at the time the breach occurs. If the claim for repayment of such salary and fringe benefits is placed in the hands of an attorney for collection after default, then the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(5) If there is not an administrator position immediately available in the sponsoring school district after a person has completed the administrator licensure requirements, or if the administrator position in the sponsoring school district in which the person is employed is no longer needed before the completion of the five-year employment commitment, the local school board shall defer any part of the employment commitment that has not been met until such time as an administrator position becomes available in the sponsoring school district. If such a deferral is made, the sponsoring school district shall employ the person as a teacher in the school district during the period of deferral, unless the person desires to be released from employment by the sponsoring school district and the district agrees to release the person from employment. If the sponsoring school district releases a person from employment, that person may be employed as an administrator in another school district in the state that is in need of administrators as determined by the State Board of Education, and that employment for the other school district shall be applied to any remaining portion of the five-year employment commitment required under this section. Nothing in this subsection shall prevent a school district from not renewing the person's contract before the end



of the five-year employment commitment in accordance with the School Employment Procedures Law (Section 37-9-101 et seq.). However, if the person is not employed as an administrator by another school district after being released by the sponsoring school district, or after his contract was not renewed by the sponsoring school district, he shall be liable for repayment of the amount of his salary and fringe benefits as provided in subsection (4) of this section.

(6) All funds received by the State Department of Education from the repayment of salary and fringe benefits paid by the state from program participants shall be deposited in the Mississippi Critical Teacher Shortage Fund.

**SOURCES:** Laws, 1997, ch. 545, § 27; Laws, 1998, ch. 544, § 8; Laws, 2001, ch. 544, § 1; Laws, 2003, ch. 416, § 3; Laws, 2007, ch. 416, § 3; Laws, 2010, ch. 488, § 6, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted (7), which was the repealer for the section.

**§ 37-9-81. Contracts with individuals with professional experience in academic, finance or other managerial and operational functions of schools to serve as consultants to the schools; certain individuals ineligible to serve as consultant.**

The school board of a local school district may contract with a person having professional experience in academic, finance or other managerial and operational functions of schools and school districts to serve as a consultant to the school board, superintendent, principals and licensed district and school level administrators in the district. However, any person having experience as a superintendent, principal or other licensed district or school level administrator whose last full-time employment in the field of education was with a school district in Mississippi determined by the State Board of Education to be a failing district is not eligible to serve as a consultant to any school district in the state, including the district at which the person was last employed, for a period of two (2) years following the last date of the person's employment with the failing school district. School districts seeking the services of a consultant shall verify the employment background of any person being considered to provide those services and may not contract with any person who does not meet the qualifications prescribed in this section.

**SOURCES:** Laws, 2010, ch. 488, § 3, eff from and after July 1, 2010.

**EDUCATION EMPLOYMENT PROCEDURES LAW**

SEC.

37-9-103. Definitions; applicability of Education Employment Procedures Law [Repealed effective July 1, 2016].

37-9-105. Written notice of decision not to offer employee renewal contract; deadline for notification of nonreemployment.

- 37-9-109. Rights of employee receiving notice of nonrenewal generally; request for hearing; finality of decision.
- 37-9-111. Hearing.

## § 37-9-101. Short title; declaration of legislative intent.

### JUDICIAL DECISIONS

#### 2. Applicability.

In a case in which the sole remaining issue was whether the Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. § 37-9-101 et seq., applied to a teacher's head basketball coach contract with a school district and both parties filed cross-motions for summary judgment, Mississippi law permitted the separate coaching contract at issue, which was not in the form set out in Miss. Code Ann. § 37-9-23 and was exempted from the EEPL. *Ladner v. Hancock County Sch. Dist.*, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 30490 (S.D. Miss. Apr. 7, 2008), affirmed by 292 Fed. Appx. 346, 2008 U.S. App. LEXIS 19467 (5th Cir. Miss. 2008).

In a case in which the sole remaining issue was whether the Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. § 37-9-101 et seq., applied to a teacher's head basketball coach contract with a school district and both parties filed cross-motions for summary judgment, the coaching contract contained express language exempting it from the EEPL. The teacher argued unsuccessfully that the coaching contract had to be subject to the EEPL since a Mississippi high school coach was required by the Mississippi High School Activities Association, Inc. *Ladner v. Hancock County Sch. Dist.*, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 30490 (S.D. Miss. Apr. 7, 2008), affirmed by 292 Fed. Appx. 346, 2008 U.S. App. LEXIS 19467 (5th Cir. Miss. 2008).

In an employment discrimination case in which a former teacher argued that she believed her disability was a motivating factor in her termination because the school district refused to give her a reason for its action, she was not covered by the Mississippi Education Employment Procedures Act. The Mississippi Education

Employment Procedures Act defined employee as any teacher employed by the local school district for a continuous period of two years with that district and required to have a valid license issued by the State Department of Education as a prerequisite of employment. *Burnworth v. Vicksburg Warren Sch. Dist.*, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 57434 (S.D. Miss. July 24, 2008).

Mississippi Education Employment Procedures Law did not apply to a case where a former employee was transferred to an alternative school after teaching biology at a junior high and high school because contract that the employee signed stipulated that the school district had the authority to transfer her, a reassignment was permitted under Miss. Code Ann. § 37-9-14(2)(s), and the reassignment was according to educator licensure guidelines in Mississippi. *Winters v. Calhoun County Sch. Dist.*, 990 So. 2d 238 (Miss. Ct. App. 2008).

Miss. Code Ann. § 37-9-101, while applicable to educators whose contracts were not renewed, does not address demotions. *Winters v. Calhoun County Sch. Dist.*, 990 So. 2d 238 (Miss. Ct. App. 2008).

Former employee's claim against a school district and school board was unsuccessful because Miss. Code Ann. § 37-9-101, while applicable to educators whose contracts were not renewed, did not address demotions. Moreover, there was nothing in the record that supported the employee's assertion that she was demoted or that her contract was not renewed because she would not have had less responsibility at an alternative school, her salary would have been essentially the same, and the employee would not have been required to teach a subject for which she lacked certification. *Winters v. Calhoun County Sch. Dist.*, 990 So. 2d 238 (Miss. Ct. App. 2008).

### § 37-9-103. Definitions; applicability of Education Employment Procedures Law [Repealed effective July 1, 2016].

(1) As used in Sections 37-9-101 through 37-9-113, the word “employee” shall include:

(a) Any teacher, principal, superintendent or other professional personnel employed by the local school district for a continuous period of two (2) years with that district and required to have a valid license issued by the State Department of Education as a prerequisite of employment; or

(b) Any teacher, principal, superintendent or other professional personnel who has completed a continuous period of two (2) years of employment in a Mississippi public school district and one (1) full year of employment with the school district of current employment, and who is required to have a valid license issued by the State Department of Education as a prerequisite of employment.

(2)(a) The Education Employment Procedures Law shall not apply to any category of employee as defined in this section employed in any school district after the Governor declares a state of emergency under the provisions of Section 37-17-6(11). The Education Employment Procedures Law shall not be applicable in any school district for the full period of time that those conditions, as defined in Section 37-17-6(11), exist.

(b) The Education Employment Procedures Law shall not apply to any category of employee as defined in this section employed in any school that is a new start school, as provided for under Section 37-167-1.

(3) For purposes of Sections 37-9-101 through 37-9-113, the term “days” means calendar days.

**SOURCES:** Laws, 1974, ch. 577, § 2; Laws, 2001, ch. 459, § 2; Laws, 2009, ch. 516, § 8; Laws, 2010, ch. 540, § 2, eff from and after July 1, 2010.

**Editor’s Note** — Laws of 2009, ch. 516 § 1 provides:

“SECTION 1. This act shall be entitled and may be cited as the “Children First Act of 2009.”

For repeal of this section, see § 37-165-27.

**Amendment Notes** — The 2009 amendment added (2); and added the subsection designation “(1).”

The 2010 amendment redesignated (2) as (2)(a), and added (2)(b); and designated the former last paragraph as (3).

### JUDICIAL DECISIONS

2. “Employee.”
3. Personnel policy.

#### 2. “Employee.”

In an employment discrimination case in which a former teacher argued that she believed her disability was a motivating factor in her termination because the school district refused to give her a reason

for its action, she was not covered by the Mississippi Education Employment Procedures Act. The Mississippi Education Employment Procedures Act defined employee as any teacher employed by the local school district for a continuous period of two years with that district and required to have a valid license issued by the State Department of Education as a



prerequisite of employment. *Burnworth v. Vicksburg Warren Sch. Dist.*, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 57434 (S.D. Miss. July 24, 2008).

Clear meaning of Miss. Code Ann. § 37-9-103 is that an employee must complete a second year of employment before the employee is entitled to the protections afforded “employees” by the Mississippi Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. §§ 37-9-101 through 37-9-113; therefore, when a worker was told that her contract was not being renewed before the completion of the second year, she was not protected by the EEPL. Moreover, she was also not entitled to notice under Miss. Code Ann.

§ 37-9-105. *Hodgins v. Phila. Pub. Sch. Dist.*, 966 So. 2d 1279 (Miss. Ct. App. 2007).

### 3. Personnel policy.

Where it was clear that an employer simply neglected to update its personnel policy to conform to a change in Miss. Code Ann. § 37-9-103, there was no evidence that the employer intended to create greater protections than the Mississippi Education Employment Procedures Law of 2001, Miss. Code Ann. §§ 37-9-101 through 37-9-113. *Hodgins v. Phila. Pub. Sch. Dist.*, 966 So. 2d 1279 (Miss. Ct. App. 2007).

## § 37-9-104. Written notice of determination not to offer superintendent a renewal contract.

### ATTORNEY GENERAL OPINIONS

A school board may employ legal counsel other than the Board Attorney only by a majority vote of a quorum present in a properly noticed and open meeting of the board, and must officially hire an attorney before sharing any confidential personnel records. Reasons for non-renewal of a superintendent’s contract and any settle-

ment offers must be approved and recorded in the minutes at an official meeting of the board. All policies, actions, and decisions of the school board must be reasonable and necessary to meet the educational needs of the district’s children. Foreman, March 30, 2007, A.G. Op. #07-00119, 2007 Miss. AG LEXIS 71.

## § 37-9-105. Written notice of decision not to offer employee renewal contract; deadline for notification of nonreemployment.

If a recommendation is made by the school district not to offer an employee a renewal contract for a successive year, written notice of the proposed nonreemployment stating the reasons for the proposed nonreemployment shall be given no later than the following:

(a) If the employee is a principal, the superintendent, without further board action, shall give notice of nonreemployment on or before March 1; or

(b) If the employee is a teacher, administrator or other professional educator covered under Sections 37-9-101 through 37-9-113, the superintendent, without further board action, shall give notice of nonreemployment on or before April 15, or within ten (10) calendar days after the date that the Governor approves the appropriation bill(s) comprising the state’s education budget for funding K-12, whichever date is later.

An interim conservator appointed pursuant to Section 37-17-6(14) (a) or a school board acting on the recommendation of a school district financial advisor appointed pursuant to Section 37-9-18 shall not be required to comply

with the time limitations prescribed in this section for recommending the reemployment of principals, teachers, administrators or other professional educators.

**SOURCES:** Laws, 1974, ch. 577, § 3; Laws, 1977, ch. 489, § 2; Laws, 1996, ch. 302, § 4; Laws, 1997, ch. 386, § 2; Laws, 2001, ch. 459, § 4; Laws, 2006, ch. 485, § 1; Laws, 2012, ch. 451, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment inserted “calendar” preceding “days after the date that the Governor approves” in (b).

## JUDICIAL DECISIONS

### 6. Miscellaneous.

In a case in which the sole remaining issue was whether the Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. § 37-9-101 et seq., applied to a teacher’s head basketball coach contract with a school district and both parties filed cross-motions for summary judgment, the teacher argued unsuccessfully that he had not received notice that his coaching contract would not be renewed. While the teaching contract had been renewed, earlier, the teacher had been notified that he would not be re-employed with the district, which seemed sufficient to meet the legislative objectives of the EEPL in regard to both contracts; there was no requirement in the EEPL or the case law that a school district had to list each contract the district intended not to renew. *Ladner v. Hancock County Sch. Dist.*, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 30490 (S.D. Miss. Apr. 7, 2008), affirmed by 292 Fed. Appx. 346, 2008 U.S. App. LEXIS 19467 (5th Cir. Miss. 2008).

Although a county school district initially decided to renew a principal’s contract, the district later became aware of events that it felt required the principal’s termination. Accordingly, the principal’s employment was terminated, so Miss. Code Ann. § 37-9-105(a) providing for the nonrenewal of a contract was not applicable. *Simpson v. Holmes County Bd. of Educ.*, 2 So. 3d 799 (Miss. Ct. App. 2009).

Clear meaning of Miss. Code Ann. § 37-9-103 is that an employee must complete a second year of employment before the employee is entitled to the protections afforded “employees” by the Mississippi Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. §§ 37-9-101 through 37-9-113; therefore, when a worker was told that her contract was not being renewed before the completion of the second year, she was not protected by the EEPL. Moreover, she was also not entitled to notice under Miss. Code Ann. § 37-9-105. *Hodgins v. Phila. Pub. Sch. Dist.*, 966 So. 2d 1279 (Miss. Ct. App. 2007).

### § 37-9-109. Rights of employee receiving notice of nonrenewal generally; request for hearing; finality of decision.

An employee who has received notice under Section 37-9-105, upon written request from the employee received by the district within ten (10) days of receipt of the notice by the employee, shall be entitled to:

(a) Written notice of the specific reasons for nonreemployment, together with a summary of the factual basis therefor, a list of witnesses and a copy of documentary evidence substantiating the reasons intended to be presented at the hearing, which notice shall be given at least fourteen (14) days prior to any hearing; if the district fails to provide this information to the employee, then the recommendation for nonreemployment shall be null and

void, and the board shall order the execution of a contract with the employee for an additional period of one (1) year;

(b) An opportunity for a hearing at which to present matters relevant to the reasons given for the proposed nonreemployment, including any reasons alleged by the employee to be the reason for nonreemployment; provided, however, that any school superintendent whose employment has been terminated by the school board under Section 37-9-59, or whose employment contract has not been renewed by the school board shall not have the right to request a hearing before the school board or a hearing officer;

(c) Receive a fair and impartial hearing before the board or hearing officer; provided, however, that any school superintendent whose employment has been terminated by the school board under Section 37-9-59, or whose employment contract has not been renewed by the school board shall not have the right to request a hearing before the school board or a hearing officer;

(d) Be represented by legal counsel, at his own expense.

Any employee requesting a hearing shall provide the district, not less than five (5) days before the scheduled date for the hearing, a response to the specific reasons for nonreemployment, a list of witnesses and a copy of documentary evidence in support of the response intended to be presented at the hearing. If the employee fails to provide this information, then the recommendation of nonreemployment shall be final without the necessity of a hearing.

If the employee does not request a hearing, the recommendation regarding the nonreemployment of the employee shall be final.

**SOURCES:** Laws, 1974, ch. 577, § 5; Laws, 1977, ch. 489, § 3; Laws, 2001, ch. 459, § 5; Laws, 2012, ch. 440, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment added the proviso at the end of (b) and (c).

## JUDICIAL DECISIONS

### 6. Miscellaneous.

Clear meaning of Miss. Code Ann. § 37-9-103 is that an employee must complete a second year of employment before the employee is entitled to the protections afforded “employees” by the Mississippi Education Employment Procedures Law of 2001 (EEPL), Miss. Code Ann. §§ 37-9-101 through 37-9-113; therefore, when a

worker was told that her contract was not being renewed before the completion of the second year, she was not protected by the EEPL. Moreover, she was also not entitled to notice under Miss. Code Ann. § 37-9-105. *Hodgins v. Phila. Pub. Sch. Dist.*, 966 So. 2d 1279 (Miss. Ct. App. 2007).

## ATTORNEY GENERAL OPINIONS

If a board of aldermen determines, consistent with the facts, that a member is no longer a resident of the ward he was

elected to serve and is not merely temporarily residing outside his ward but has abandoned same, a vacancy would have to



be declared and a special election set in accordance with Section 23-15-857. Skellie, Aug. 18, 2006, A.G. Op. 06-0377.

### § 37-9-111. Hearing.

(1) The school board, or its designee, upon request for a hearing from an employee under the terms of Sections 37-9-101 through 37-9-113, shall set the time, place and date of such hearing and notify the employee in writing of same. The date shall be set not sooner than five (5) days nor later than thirty (30) days from the date of the request, unless otherwise agreed. The hearing may be held before the board or before a hearing officer appointed for such purpose by the board, either from among its own membership, from the staff of the school district or some other qualified and impartial person, but in no event shall the hearing officer be the staff member responsible for the initial recommendation of nonreemployment. No hearing officer may have an interest in the outcome of a hearing, nor may a hearing officer be related to a board member, any administrator making the recommendations of nonreemployment or the employee. Once a hearing officer is appointed, no ex parte communications may be made regarding any substantive provisions of the hearing.

(2) The hearing must be held in executive session unless the employee elects to have a public hearing. If an employee makes this election, however, the board or the hearing officer, as the case may be, may order any part of the hearing to be held in executive session, if, in the opinion of the board or the hearing officer, the testimony to be elicited deals with matters involving the reputation or character of another person. Notwithstanding the election by an employee for a public hearing, any testimony by minor witnesses must be held in executive session and considered confidential personnel records and confidential student records, subject to an expectation of reasonable privacy and confidentiality. Public disclosure of these records may be by court order only.

(3) The district shall present evidence, either in written or oral form, at the hearing in support of its recommendation for nonreemployment.

The employee shall be afforded an opportunity to present matters at the hearing relevant to the reasons given for the proposed nonreemployment determination and to the reasons the employee alleges to be the reasons for nonreemployment and to be represented by counsel at such a hearing. Such hearing shall be conducted in such a manner as to afford the parties a fair and reasonable opportunity to present witnesses and other evidence pertinent to the issues and to cross-examine witnesses presented at the hearing. The board or the hearing officer may require any portion of the evidence to be submitted in the form of depositions or affidavits, and in case affidavits are received, an opportunity to present counter-affidavits shall be provided.

(4) The board shall cause to be made stenographic notes of the proceedings. In the event of a judicial appeal of the board's decision, the entire expense of the transcript and notes shall be assessed as court costs.

(5) The board shall review the matters presented before it, or, if the hearing is conducted by a hearing officer, the report of the hearing officer, if

any, the record of the proceedings and, based solely thereon, conclude whether the proposed nonreemployment is a proper employment decision, is based upon a valid educational reason or noncompliance with school district personnel policies and is based solely upon the evidence presented at the hearing, and shall notify the employee in writing of its final decision and reasons therefor. Such notification shall be within thirty (30) days of the conclusion of the hearing if the hearing is conducted by a hearing officer and within ten (10) days of the conclusion of the hearing if the hearing is initially conducted by the board. If the matter is heard before a hearing officer, the board shall also grant the employee the opportunity to appear before the board to present a statement in his own behalf, either in person or by his attorney, prior to a final decision by the board.

(6) In conducting a hearing, the board or hearing officer shall not be bound by common law or by statutory rules of evidence or by technical or formal rules of procedure except as provided in Sections 37-9-101 through 37-9-113, but may conduct such hearing in such manner as best to ascertain the rights of the parties; however, hearsay evidence, if admitted, shall not be the sole basis for the determination of facts by the board or hearing officer.

(7) In the event the decision of the school board is in favor of the employee, the board shall have the authority to order the execution of a contract with the employee for an additional period of one (1) year.

(8) For purposes of conducting hearings under Sections 37-9-101 through 37-9-113, the board or hearing officer shall have the authority to issue subpoenas for witnesses and to compel their attendance and the giving of evidence. Any expense connected therewith shall be borne by the party requesting the subpoenas, which shall include an appearance fee for each witness so subpoenaed not inconsistent with state laws governing payments to witnesses. In the event it is necessary to enforce or to quash a subpoena issued to compel the attendance of a witness, application shall be made with the chancery court of the county where the school board is located.

(9) This section shall not be applicable to a superintendent whose employment has been terminated by the school board under Section 37-9-59, or whose employment contract has not been renewed by the school board.

**SOURCES:** Laws, 1974, ch. 577, § 6; Laws, 1977, ch. 489, § 4; Laws, 2001, ch. 459, § 6; Laws, 2012, ch. 440, § 2, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment added (9).

## JUDICIAL DECISIONS

### 7. Miscellaneous.

Former school principal's Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., race discrimination claims, which the principal did not raise during his discharge proceedings and appeal were not barred by res judicata; although the

chancery court could consider under Miss. Code. Ann. § 37-9-113 whether the principal's rights had been violated, the chancery court was limited to the record that was made before the board, and the principal could not have been expected to raise before the board his claim that the board

was motivated by discriminatory animus when it upheld the principal's discharge. *Floyd v. Amite County Sch. Dist.*, 495 F. Supp. 2d 619 (S.D. Miss. 2007).

Former school principal's Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., race discrimination claims, which the principal did not raise during his discharge proceedings and appeal were not barred by collateral estoppel because

the race discrimination claims were not raised in the discharge proceedings, and although a court of appeals found that the school superintendent and board of education had three legitimate reasons for discharging the principal, the principal could attempt to show that those reasons were pretextual. *Floyd v. Amite County Sch. Dist.*, 495 F. Supp. 2d 619 (S.D. Miss. 2007).

## § 37-9-113. Judicial review.

### JUDICIAL DECISIONS

2. Scope of appeal; jurisdiction.
5. Miscellaneous.

#### 2. Scope of appeal; jurisdiction.

In a case in which a school district (District) appealed a decision by a chancery court finding that the school board's (Board) decision not to uphold a superintendent's recommendation to renew appellee employee's contract was not supported by any substantial evidence and was arbitrary and capricious, the District argued that the chancellor failed to follow the proper standard of review under Miss. Code Ann. § 37-9-113. The chancellor went beyond the record of the hearing officer since the only issue before the hearing officer and, subsequently, the chancellor, was whether the Board's decision to refuse the renewal of a part-time contract, because they felt a full-time contract was beneficial, was arbitrary and capricious; the issue of whom would be hired for the full-time position, which did not exist, was irrelevant to that inquiry. *Smith County Sch. Dist. v. Campbell*, 18 So. 3d 335 (Miss. Ct. App. 2009).

In a case in which a school district (District) appealed a decision by a chancery court finding that the school board's decision not to uphold a superintendent's recommendation to renew appellee employee's contract was not supported by any substantial evidence and was arbitrary and capricious, the District argued that the chancellor failed to follow the proper standard of review under Miss. Code Ann. § 37-9-113. The chancellor abused his discretion by taking judicial notice that school districts around the

state had employees who retired and were rehired after 45 days on a half-time basis at half-time salary; while the chancellor might know that to be true and accurate, that fact was not generally known in the territorial jurisdiction of the trial court or capable of accurate determination by a source whose accuracy could not be questioned. *Smith County Sch. Dist. v. Campbell*, 18 So. 3d 335 (Miss. Ct. App. 2009).

Former school principal's Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., race discrimination claims, which the principal did not raise during his discharge proceedings and appeal were not barred by res judicata; although the chancery court could consider under Miss. Code Ann. § 37-9-113 whether the principal's rights had been violated, the chancery court was limited to the record that was made before the board, and the principal could not have been expected to raise before the board his claim that the board was motivated by discriminatory animus when it upheld the principal's discharge. *Floyd v. Amite County Sch. Dist.*, 495 F. Supp. 2d 619 (S.D. Miss. 2007).

#### 5. Miscellaneous.

Former school principal's Title VII of the Civil Rights Act, 42 U.S.C.S. § 2000e et seq., race discrimination claims, which the principal did not raise during his discharge proceedings and appeal were not barred by collateral estoppel because the race discrimination claims were not raised in the discharge proceedings, and although a court of appeals found that the school superintendent and board of education had three legitimate reasons for dis-



charging the principal, the principal could attempt to show that those reasons were pretextual. *Floyd v. Amite County Sch. Dist.*, 495 F. Supp. 2d 619 (S.D. Miss. 2007).

## CHAPTER 11

### General Provisions Pertaining to Education

#### SEC.

- 37-11-1. Assignment of pupil to class where presence of pupil would have adverse effect on class; request by parent or guardian to place twins or other multiples in same or separate classrooms.
- 37-11-8. Office of Healthy Schools of the State Department of Education to develop and implement the Healthier School Initiative; purpose; financial incentives to certain schools; eligibility criteria to participate in HealthierUS School Challenge.
- 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year.
- 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.
- 37-11-35. Penalties for failure to file reports pursuant to Section 37-11-29 or 97-5-24.
- 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports.
- 37-11-61. Local school districts and agricultural high schools to provide parents information about meningococcal disease; State Board of Health to develop information about meningococcal disease for distribution to parents.
- 37-11-64. Prohibition against school administrators or other employees changing, altering or otherwise influencing grade received by student from teacher; exceptions; violation.
- 37-11-65. Students in grades 7-12 to be suspended from participation in extracurricular or athletic activity for failure to maintain certain cumulative grade point average.
- 37-11-66. Local school board adoption and implementation of written policy regarding school district's requirement for awarding a minimum grade.
- 37-11-67. Bullying or harassing behavior in public schools prohibited.
- 37-11-69. Personnel and discipline policies and code of student conduct to include prohibition against bullying or harassing behavior.
- 37-11-71. State Department of Education to require school districts to take certain actions relating to children with asthma [Repealed effective July 1, 2014].
- 37-11-73. Disbursement of certain funds by school districts to nonprofit foundations under certain circumstances.

#### **§ 37-11-1. Assignment of pupil to class where presence of pupil would have adverse effect on class; request by parent or guardian to place twins or other multiples in same or separate classrooms.**

(1) Subject to the provisions of subsection (2) of this section, after a pupil has been assigned to a particular public school, the principal, or anyone else

vested with the authority of assigning pupils to classes, knowingly shall not place such pupil in a class where the pupil's presence would serve to adversely affect, hinder, or retard the academic development of the other pupils in the class.

(2)(a) A parent or guardian of twins or higher order multiples, as defined in paragraph (d) of this subsection, may request that the children be placed in the same classroom or in separate classrooms if the children are in the same grade level at the same school. The school may recommend classroom placement and provide professional education advice to the parent or guardian to assist the parent or guardian in making the best decision for the children's education. A school must provide the placement requested by the children's parent or guardian unless: (i) the parent or guardian has requested that the children, who are different sexes, be placed in the same classroom and the students in the school have been assigned to different classrooms according to sex, as authorized under Section 37-11-3; or (ii) the school board of the school district makes a classroom placement determination following the school principal's request according to this subsection.

(b) A parent or guardian making a request under this subsection must submit a written request for the classroom placement to the school principal no later than fourteen (14) calendar days after the first day of each school year or, if the children are enrolled in the school after the school year commences, no later than fourteen (14) calendar days after the children's first day of attendance in the school.

(c) At the end of the initial grading period during which children have been in the same classroom or separate classrooms pursuant to their parent or guardian's request under this subsection, if the principal, in consultation with the children's classroom teacher or teachers, determines that the requested classroom placement is disruptive to the school, the principal may request that the school board determine the children's classroom placement.

(d) For purposes of this section, the term "higher order multiples" means triplets, quadruplets, quintuplets or more.

**SOURCES:** Codes, 1942, § 6216-41; Laws, 1964, 1st Ex Sess, ch. 24; Laws, 2009, ch. 484, § 1; reenacted without change, Laws, 2011, ch. 348, § 1, eff from and after July 1, 2011.

**Editor's Note** — Laws of 2011, ch. 348, § 2, effective July 1, 2011, amended Laws of 2009, ch. 484, § 2, to delete the repealer for this section, which would have repealed the section effective July 1, 2011.

**Amendment Notes** — The 2009 amendment added (2) and designated the formerly undesignated provisions of the section as (1); in (1), added "Subject to the provisions of subsection (2) of this section" at the beginning, inserted "knowingly," substituted "the pupil's presence" for "his presence," and deleted "there, because of age differential, mental development, achievement level, or personal habits" thereafter.

The 2011 amendment reenacted the section without change.

**§ 37-11-8. Office of Healthy Schools of the State Department of Education to develop and implement the Healthier School Initiative; purpose; financial incentives to certain schools; eligibility criteria to participate in HealthierUS School Challenge.**

(1) The Office of Healthy Schools of the State Department of Education shall develop and implement the Healthier School Initiative, consistent with the HealthierUS School Challenge developed by the United States Department of Agriculture and administered through its Food and Nutrition Service, to facilitate healthy choices and practices by local school districts through the promotion of healthier school environments. The office shall establish standard procedures to be adhered to by schools electing to participate in the program and shall establish a deadline for the submission of applications for participation in the initiative.

(2) Subject to the availability of funds whether appropriated by the Legislature, in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), or received as gifts, bequests, endowments or grants from any public or private source, the Office of Healthy Schools shall provide financial incentives to schools receiving recognition through the HealthierUS School Challenge for purposes of funding the resources and staff training needed to meet healthy eating, nutrition education and physical education guidelines. The department shall allocate the funds to schools receiving recognition in the following amounts:

(a) Two Thousand Dollars (\$2,000.00) shall be awarded to schools receiving the Bronze Award level of recognition;

(b) Four Thousand Dollars (\$4,000.00) shall be awarded to schools receiving Silver Award level of recognition;

(c) Six Thousand Dollars (\$6,000.00) shall be awarded to schools receiving Gold Award level of recognition; and

(d) Eight Thousand Dollars (\$8,000.00) shall be awarded to schools receiving Gold Award of Distinction level of recognition.

(3) The Office of Healthy Schools shall require local school districts to include information relevant to the HealthierUS School Challenge on their district Web sites and shall provide technical assistance to schools that elect to participate in the challenge to become a HealthierUS School. The office shall require participating schools to:

(a) Enroll as a Team Nutrition School;

(b) Offer reimbursable lunches that demonstrate healthy menu planning practices and principles of the Dietary Guidelines for Americans and that meet United States Department of Agriculture nutrition standards;

(c) Provide nutrition education to students;

(d) Provide students with physical education and the opportunity for physical activity;

(e) Maintain an average daily participation of school enrollment for reimbursable lunches; and



(f) Adhere to guidelines established by Food and Nutrition Service for foods served and/or sold in schools outside the National School Lunch Program.

(4) To be eligible for participation, a school must:

(a) Be a public elementary or secondary school;

(b) Participate in the National School Lunch Program;

(c) Be enrolled in United States Department of Agriculture Team Nutrition; and

(d) Submit an application to the United States Department of Agriculture.

(5) Application for certification as a HealthierUS School must be submitted to the State Department of Education for review by the Office of Healthy Schools, which, upon its approval, shall forward the applications to the United States Department of Agriculture for consideration. Any application that is not approved based on standards for submission established by the Office of Healthy Schools shall be returned with instructions for modification and resubmission by the submitting school.

**SOURCES: Laws, 2010, ch. 425, § 1, eff from and after July 1, 2010.**

**Editor's Note** — The preamble to Laws of 2010, ch. 425, provides as follows:

“WHEREAS, the United States Department of Agriculture’s Food and Nutrition Service (FNS) recognizes schools that take a leadership role in helping students learn to make healthy eating and active lifestyle choices through the HealthierUS School Challenge (HUSC); and

“WHEREAS, the HealthierUS School Challenge (HUSC) was established to recognize schools that are creating healthier school environments through their promotion of good nutrition and physical activity on four (4) levels of superior performance: Bronze, Silver, Gold, and Gold Award of Distinction; and

“WHEREAS, to qualify for the awards, a school must submit a formal application and meet basic criteria set forth by the Food and Nutrition Service reflecting the HUSC criteria recommended in the 2005 Dietary Guidelines for Americans and the Institute of Medicine’s (IOM) recommendations published in April 2007 for foods that should be served in schools, outside of the organized school lunch meals; and

“WHEREAS, HealthierUS Schools also must have a local school wellness policy as mandated by the United States Congress which supports the HUSC initiative and affirms that the school plays a critical role in promoting student health, preventing childhood obesity, and combating problems associated with poor nutrition and physical inactivity; NOW, THEREFORE,”

## **§ 37-11-17. Physical examinations of employees for infectious or communicable diseases; spinal curvature screening program for students.**

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the Mississippi Community College Board.”

**§ 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year.**

(1) For the purposes of this section:

(a) The term “disruptive behavior” means conduct of a student that is so unruly, disruptive or abusive that it seriously interferes with a school teacher’s or school administrator’s ability to communicate with the students in a classroom, with a student’s ability to learn, or with the operation of a school or school-related activity, and which is not covered by other laws related to violence or possession of weapons or controlled substances on school property, school vehicles or at school-related activities. Such behaviors include, but are not limited to: foul, profane, obscene, threatening, defiant or abusive language or action toward teachers or other school employees; defiance, ridicule or verbal attack of a teacher; and willful, deliberate and overt acts of disobedience of the directions of a teacher; and

(b) The term “habitually disruptive” refers to such actions of a student which cause disruption in a classroom, on school property or vehicles or at a school-related activity on more than two (2) occasions during a school year, and to disruptive behavior that was initiated, willful and overt on the part of the student and which required the attention of school personnel to deal with the disruption. However, no student shall be considered to be habitually disruptive before the development of a behavior modification plan for the student in accordance with the code of student conduct and discipline plans of the school district.

(2) Every behavior modification plan written pursuant to this section must be developed by utilizing evidence-based practices and positive behavioral intervention supports. The plan must be implemented no later than two (2) weeks after the occurrence of the disruptive behavior.

(3) Any student who is thirteen (13) years of age or older for whom a behavior modification plan is developed by the school principal, reporting teacher and student’s parent and which student does not comply with the plan shall be deemed habitually disruptive and subject to expulsion on the occurrence of the third act of disruptive behavior during a school year. After the second act of disruptive behavior during a school year by a student, a psychological evaluation shall be performed upon the child.

**SOURCES:** Laws, 2001, ch. 486, § 6; Laws, 2003, ch. 416, § 4; Laws, 2007, ch. 416, § 4; Laws, 2010, ch. 488, § 7, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted (4), which was the repealer for the section.

**§ 37-11-20. Intimidation, threatening or coercion of students for purpose of interfering with attendance of classes.**

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

**§ 37-11-21. Abuse of superintendent, principal, teacher, or bus driver.**

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

**§ 37-11-23. Disturbing public school sessions or meetings.**

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

**§ 37-11-27. Interest in contracts involving public schools.**

**ATTORNEY GENERAL OPINIONS**

Permitting school district employees to place FEMA trailers on school district property that is not being used for school purposes, is not a contract that is prohibited by the provisions of Section 37-11-27. Sessoms, Dec. 9, 2005, A.G. Op. 05-0559.

**§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.**

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may



be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars (\$50.00) and costs.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 99-3-7.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

(6) For purposes of this section, "unlawful activity" means any of the following:

- (a) Possession or use of a deadly weapon, as defined in Section 97-37-1;
- (b) Possession, sale or use of any controlled substance;
- (c) Aggravated assault, as defined in Section 97-3-7;
- (d) Simple assault, as defined in Section 97-3-7, upon any school employee;
- (e) Rape, as defined under Mississippi law;
- (f) Sexual battery, as defined under Mississippi law;
- (g) Murder, as defined under Mississippi law;
- (h) Kidnapping, as defined under Mississippi law; or
- (i) Fondling, touching, handling, etc., a child for lustful purposes, as defined in Section 97-5-23.

**SOURCES:** Codes, 1942, § 6216-31; Laws, 1960, ch. 319, § 1; Laws, 1994, ch. 636, § 2; Laws, 1994, ch. 607, § 2; Laws, 1996, ch. 311, § 1, eff from and after July 1, 1996.

**Joint Legislative Committee Note** — Subsection (3) of this section contained an incorrect reference to “Section 37-11-15.” In 2007, the reference was changed to “Section 37-11-35” at the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation. The correction was ratified by the Joint Committee, pursuant to Section 1-1-109, at the Committee’s August 5, 2008, meeting.

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

## JUDICIAL DECISIONS

### 1. Failure to report.

There was substantial evidence supporting the termination of a principal after he failed to report three incidents as required by Miss. Code Ann. § 37-11-29(1) and the a county board of education’s

policy including that the principal first claimed that he was not aware of the incidents and later testified that he had tried to call the superintendent to make a report. *Simpson v. Holmes County Bd. of Educ.*, 2 So. 3d 799 (Miss. Ct. App. 2009).

### § 37-11-31. Contents of report pursuant to § 37-11-29.

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

### § 37-11-35. Penalties for failure to file reports pursuant to Section 37-11-29 or 97-5-24.

(1) If any person charged by Section 37-11-29(2) or (3) to make the reports therein provided for shall willfully fail, refuse or neglect to file any such report, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned not exceeding six (6) months, or both.

(2) If any person charged by Section 97-5-24 to make the reports therein provided for shall willfully fail, refuse or neglect to file any such report, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned not exceeding six (6) months, or both.

**SOURCES:** Codes, 1942, § 6216-32; Laws, 1960, ch. 319, § 2; Laws, 1994, ch. 607, § 5; Laws, 2011, ch. 514, § 3, eff from and after passage (approved Apr. 26, 2011.)

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the ‘Mississippi Community College Board.’

**Amendment Notes** — The 2011 amendment designated former provisions as (1), and added (2).

**Cross References** — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see 99-19-73.

**§ 37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.**

#### ATTORNEY GENERAL OPINIONS

A school district has the authority to have a student tested for suspicion of using drugs without first securing the parent's or guardian's permission. Montgomery, Aug. 20, 2006, A.G. Op. 06-0513.

**§ 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports.**

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

**SOURCES:** Laws, 2001, ch. 391, § 1; Laws, 2001, ch. 486, § 5; Laws, 2003, ch. 416, § 5; Laws, 2007, ch. 416, § 5; Laws, 2010, ch. 488, § 8, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted the last paragraph, which was the repealer for the section.



**§ 37-11-55. Code of student conduct.****ATTORNEY GENERAL OPINIONS**

A school district has the authority to have a student tested for suspicion of using drugs without first securing the parent's or guardian's permission. Montgomery, Aug. 20, 2006, A.G. Op. 06-0513.

**§ 37-11-61. Local school districts and agricultural high schools to provide parents information about meningococcal disease; State Board of Health to develop information about meningococcal disease for distribution to parents.**

(1) Local school boards shall ensure that all public schools and agricultural high schools provide parents and guardians with information about meningococcal disease and the effectiveness of vaccination against meningococcal disease. Such information may be provided through the school district Web site, student handbook or other appropriate means of dissemination of information. Such information shall be updated annually if new information on such disease is available. This information shall include the causes, symptoms and means by which meningococcal disease is spread and the places where parents and guardians may obtain additional information and vaccinations for their children. Nothing in this section shall be construed to require a local school board or school to provide or purchase vaccine against meningococcal disease.

(2) The State Board of Health shall develop and make available educational materials appropriate for distribution so that the information required by this section can be provided to parents and guardians. The Department of Health may provide this information, at its discretion, electronically, on its Web site. Nothing in this section shall be construed to require the Department of Health to provide or purchase vaccine against meningococcal disease.

**SOURCES:** Laws, 2006, ch. 501, § 1; Laws, 2007, ch. 416, § 6; Laws, 2010, ch. 488, § 9, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted the last paragraph, which was the repealer for the section.

**§ 37-11-64. Prohibition against school administrators or other employees changing, altering or otherwise influencing grade received by student from teacher; exceptions; violation.**

(1) No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teachers, coaches, or other administrative staff members of the school or the central staff of a local school board shall attempt, directly or indirectly, to change, alter, or otherwise affect the

grade received by a student from his teacher except as otherwise specifically allowed by this section.

(2)(a) A teacher's determination of a student's grade as a measure of the academic achievement or proficiency of the student shall not be altered or changed in any manner by any school official or employee other than the teacher except as provided in this subsection.

(b) A school official or employee having authority provided under formally adopted written rules and procedures adopted by the local school board to change a student's grade can take such action only upon it being determined that the grade is an error or that the grade is demonstrably inconsistent with the teacher's grading policy.

(3) Any local school district or personnel employed by the school district who violates the provisions of this section shall cause the local school district or school to be subject to losing its accreditation in the manner determined by the policies and procedures of the State Board of Education.

**SOURCES:** Laws, 2012, ch. 492, § 1, eff from and after July 1, 2012.

**§ 37-11-65. Students in grades 7-12 to be suspended from participation in extracurricular or athletic activity for failure to maintain certain cumulative grade point average.**

A student who is enrolled in any grade higher than Grade 6 in a school district in this state must be suspended from participation in any extracurricular or athletic activity sponsored or sanctioned by the school district after a semester in which the student's cumulative grade point average is below a 2.0 on a 4.0 scale. The suspension from participation in extracurricular or athletic activities may not be removed until the student's cumulative grade point average in a succeeding semester is 2.0 or higher on a 4.0 scale. A student with a cumulative grade point average below a 2.0 on a 4.0 scale at the semester of an academic school year shall be suspended from participation in extracurricular or athletic activities in the succeeding academic school year until the student's cumulative grade point average is 2.0 or higher on a 4.0 scale.

**SOURCES:** Laws, 2009, ch. 516, § 2, eff from and after passage (approved Apr. 8, 2009.)

**§ 37-11-66. Local school board adoption and implementation of written policy regarding school district's requirement for awarding a minimum grade.**

Each local school board shall adopt and implement a written policy with regard to the school district's mandate or requirement for the awarding of a minimum grade which is in compliance with the grading policy requirement established by the State Board of Education Policy 403.

**SOURCES:** Laws, 2011, ch. 516, § 3, eff from and after July 1, 2011.

**§ 37-11-67. Bullying or harassing behavior in public schools prohibited.**

(1) As used in this section and Section 37-11-69, “bullying or harassing behavior” is any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication, or any act reasonably perceived as being motivated by any actual or perceived differentiating characteristic, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(a) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(b) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student’s educational performance, opportunities or benefits. For purposes of this section, “hostile environment” means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

(2) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(3) No person shall engage in any act of reprisal or retaliation against a victim, witness or a person with reliable information about an act of bullying or harassing behavior.

(4) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(5) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

**SOURCES:** Laws, 2010, ch. 508, § 1, eff from and after July 1, 2010.

**§ 37-11-69. Personnel and discipline policies and code of student conduct to include prohibition against bullying or harassing behavior.**

Before December 31, 2010, each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior. The policies must recognize the fundamental right of every student to take reasonable actions as may be necessary to defend himself or herself from an attack by another student who has evidenced menacing or threatening behavior through bullying or harassing.

**SOURCES:** Laws, 2010, ch. 508, § 2, eff from and after July 1, 2010.



**§ 37-11-71. State Department of Education to require school districts to take certain actions relating to children with asthma [Repealed effective July 1, 2014].**

(1) The State Department of Education shall require each public school district to take the following actions relating to the management of asthma in the school setting:

(a) Recommend that each child with asthma have a current asthma action plan (AAP) on file at the child's school for the 2010-2011 school year, and require that each child with asthma have a current AAP on file at the child's school for the 2011-2012 school year and each school year thereafter, for use by the school nurse, teachers and staff. Parents and guardians of a child with asthma are to have the child's AAP developed and signed by the child's health care provider. The AAP should include the child's asthma severity classification, current asthma medication and emergency contact information. The AAP must be updated annually.

(b) Adopt an emergency protocol that includes instructions for all school staff to follow in case of a major medical emergency for asthma and all other life-threatening diseases.

(c) Fully implement Section 41-79-31, which authorizes the self-administration of asthma medication at school by students.

(d) Provide comprehensive, in-service training on asthma for teachers, assistant teachers, school nurses, administrators, and operations, maintenance and support staff. The training should include instruction on the use of AAPs, the requirements of Section 41-79-31, emergency protocols for asthma and policies in effect in that school relating to asthma.

(e) Require school nurses to attend certified asthma educators training. The cost of the training required for school nurses shall be paid by the American Lung Association.

(f) Require local school health councils to conduct a school health needs assessment that addresses and supports the implementation of the following: healthy school environment, physical activity, staff wellness, counseling/psychological services, nutrition services, family/community involvement, health education and health services. The results of the assessment must be used in the development of long-range maintenance plans that include specific indoor air quality components for each school building. The long-range maintenance plans must be included in the local school wellness policy. The long-range plans must be completed before January 1, 2012.

(g) Require local school health councils to adopt and support the implementation of a local school wellness policy that includes minimizing children's exposure to dust, gases, fumes and other pollutants that can aggravate asthma in the school setting. The policy must require the air quality and ventilation systems of schools to be assessed annually, which assessment may be accomplished with the Environmental Protection Agency's Tools for Schools Indoor Air Quality Checklist. The policy also must prohibit the use of hazardous substances such as, but not limited to,

chemical cleaning products and pesticides in and around school buildings during the hours that children are present at school. The policy must require all school construction projects to implement containment procedures not later than July 1, 2012, for dusts, gases, fumes and other pollutants that trigger asthma.

(h) Implement an integrated pest management program that includes procedural guidelines for pesticide application, education of building occupants and inspection and monitoring of pesticide applications. The integrated pest management program may limit the frequency, duration and volume of pesticide application on school grounds.

(i) Require school bus operators to minimize the idling of school bus engines to prevent exposure of children and adults to diesel exhaust fumes.

(j) Require coaches and physical education teachers to participate in the American Lung Association Coaches Care/Asthma 101 training by the 2011-2012 school year, subject to funding by the school district.

(2) This section shall stand repealed on July 1, 2014.

**SOURCES:** Laws, 2010, ch. 512, § 2, eff from and after July 1, 2010.

### **§ 37-11-73. Disbursement of certain funds by school districts to nonprofit foundations under certain circumstances.**

(1) This section applies only to those school districts in which there exists a foundation incorporated as a nonprofit organization, legally separate from any school district, which has as its sole purpose the receiving of grants, donations and gifts of real or personal property, or both, to be used and applied exclusively for educational purposes in a particular school district with the goals of enhancing the public educational experience of students and improving the quality of their instruction in that school district.

(2) Whenever an audit of a school district described under subsection (1) includes a finding that the foundation supporting the educational purposes of that school district is considered to be a blended component unit of the district, as determined by Section 2100 of the “Codification of Governmental Accounting and Financial Reporting Standards,” any funds belonging to the foundation which are transferred to the public funds of the school district upon the dissolution of the foundation due to the auditor’s finding may be disbursed to any successor foundation that subsequently is incorporated as a nonprofit entity if:

(a) The successor foundation adopts as its primary mission the same purpose and goals as the original foundation;

(b) The funds of the successor foundation are not subject to any oversight by the school board of the school district, nor shall any member of the local school board serve as a member of the foundation’s board of directors, and the successor foundation is structured legally in such a manner that the foundation is not considered, under generally accepted accounting principles, to be part of the school district;

(c) The funds that are the subject of the disbursement are to be used by the successor foundation in carrying out its purpose of enhancing the public educational experience and quality of the instruction available to students in the school district, which is a purpose recognized to be primarily a function of the government; and

(d) The precise amount of the principal of the funds to be disbursed, along with any interest that has been earned on the principal, less any amount previously obligated by the school district, has been determined through an independent analysis of the school district's fund or funds to which the predecessor foundation's funds were transferred.

(3) A disbursement of funds by a school district under this section is considered a disbursement made for a public purpose in consideration of the foundation's aid to the school district in discharging the district's governmental obligation to provide a quality education to the children of that school district.

SOURCES: Laws, 2011, ch. 408, § 1, eff from and after July 1, 2011.

CHAPTER 13

Curriculum; School Year and Attendance

|                                                     |           |
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IN GENERAL

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| 37-13-19. | Local school districts may allow course credit for completion of National Guard basic training to certain students. |

§ 37-13-1. Uniform system of free public schools.

JUDICIAL DECISIONS

2. Discipline.

When a student was suspended after allegedly intentionally inflicting cuts on her arm, the student's right to an education under Miss. Const. Art. VIII, § 201, effectuated by Miss. Code Ann. § 37-13-1,

was not violated because she was offered placement in an alternative school instead of the suspension. *Foster v. Tupelo Pub. Sch. Dist.*, 569 F. Supp. 2d 667 (N.D. Miss. 2008).

§ 37-13-10. Repealed.

Repealed by Laws of 2012, ch. 459, § 1, effective upon passage (approved April 23, 2012).



§ 37-13-10. [Laws, 1998, ch. 497, § 1; Laws, 2011, ch. 350, § 1; Laws, 2011, ch. 442, § 11, eff from and after July 1, 2011.]

**Editor's Note** — Former § 37-13-10 provided components of a reading sufficiency program of instruction to be implemented by the Board of Education.

### **§ 37-13-19. Local school districts may allow course credit for completion of National Guard basic training to certain students.**

In addition to the curriculum otherwise required by law or the State Board of Education to be taught in the public schools of this state, the school board of a local school district may allow course credit to any high school student, who is a member of the National Guard and attends basic training camp during the summer between the end of the student's junior year and the start of the student's senior year of academic instruction. At the conclusion of the student's basic training, the commanding officer of the National Guard unit of which the student is a reserve member shall provide evidence of the student's completion of training to the local school district where the student is in attendance. Upon receipt of the evidence provided by the National Guard, the school district may award one (1) Carnegie unit of elective credit to the student. This elective credit may be applied along with the total number of Carnegie units required for the student to graduate.

**SOURCES:** Laws, 2012, ch. 344, § 1, eff from and after July 1, 2012.

**Editor's Note** — A former § 37-13-19 (Codes, 1942, § 6216-12; Laws, 1953, Ex Sess, ch. 26, § 12, repealed by Laws, 1982, Ex Sess, ch. 17, § 44, eff from and after July 1, 1984) provided for instruction in hygiene and physical education.

## **SCHOOL YEAR AND ATTENDANCE**

SEC.

37-13-62. School Start Date Act.

37-13-63. Minimum length of school term.

37-13-64. Exemption from minimum school term length requirement for certain schools under certain circumstances.

37-13-65. Closing of schools for holidays and emergencies.

### **§ 37-13-61. Date of opening and closing of school term; length of school term.**

**SOURCES:** Codes, 1942, §§ 6274-09, 6411-12; Laws, 1953, Ex Sess, ch. 16, § 9; ch. 23, § 12; Laws, 1981, ch. 499, § 9; Laws, 1986, ch. 492, § 85; Laws, 2006, ch. 417, § 10; reenacted without change, Laws, 2009, ch. 345, § 11; brought forward without change, Laws, 2011, ch. 313, § 4, eff from and after passage (approved Feb. 24, 2011.)

**Editor's Note** — This section was reenacted without change by Laws of 2009, ch. 345, § 11, effective from and after June 30, 2009. Since the language of the section as

it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was brought forward without change by Laws of 2011, ch. 313, effective from and after February 24, 2011. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

The 2011 amendment brought forward the section without change.

**Cross References** — New academic school year to begin on or after third Monday in August, see § 37-13-62.

## § 37-13-62. School Start Date Act.

(1) This section shall be known and may be cited as the School Start Date Act.

(2) Beginning with the 2014-2015 school year, all public elementary or secondary schools under the jurisdiction of the State Board of Education shall begin the new academic year of instruction for students on or after the third Monday in August.

(3) The provisions of subsection (2) of this section shall not apply to the Mississippi School for the Blind and the Mississippi School for the Deaf.

**SOURCES:** Laws, 2012, ch. 511, § 1, eff from and after July 1, 2012.

## § 37-13-63. Minimum length of school term.

(1) Except as otherwise provided, all public schools in the state shall be kept in session for at least one hundred eighty (180) days in each scholastic year.

(2) If the school board of any school district shall determine that it is not economically feasible or practicable to operate any school within the district for the full one hundred eighty (180) days required for a scholastic year as contemplated due to an enemy attack, a man-made, technological or natural disaster or extreme weather emergency in which the Governor has declared a disaster or state of emergency under the laws of this state or the President of the United States has declared an emergency or major disaster to exist in this state, the school board may notify the State Department of Education of the disaster or weather emergency and submit a plan for altering the school term. If the State Board of Education finds the disaster or extreme weather emergency to be the cause of the school not operating for the contemplated school term and that such school was in a school district covered by the Governor's or President's disaster or state of emergency declaration, it may permit that school board to operate the schools in its district for less than one hundred eighty (180) days; however, in no instance of a declared disaster or state of emergency under the provisions of this subsection shall a school board receive payment from the State Department of Education for per pupil expenditure for pupils in average daily attendance in excess of ten (10) days.

**SOURCES:** Codes, 1942, §§ 6274-10, 6411-12; Laws, 1953, Ex Sess, ch. 16, § 10; ch. 23, § 12; Laws, 1986, ch. 492, § 86, 1992, ch. 524, § 7; Laws, 2003, ch. 544, § 1; Laws, 2011, ch. 313, § 2, eff from and after passage (approved Feb. 24, 2011.)

**Amendment Notes** — The 2011 amendment added “Except as otherwise provided” to the beginning of (1); in (2), twice inserted “or extreme weather emergency,” substituted “disaster or state of emergency” for “disaster emergency” and “notify the State Department of Education of the disaster or weather emergency” for “notify the State Department of Education of such disaster” in the first sentence, and substituted “or state of emergency declaration” for “declaration” and added the language beginning “however, in no instance of a declared disaster” at the end of the second sentence; and made minor stylistic changes.

**Cross References** — Exemption from minimum school term length requirement for certain schools under certain circumstances, see § 37-13-64.

### **§ 37-13-64. Exemption from minimum school term length requirement for certain schools under certain circumstances.**

(1) Beginning with the 2010-2011 school term, any school district required to close the operation of its schools by decision of the superintendent, under the authority provided by the local school board, due to extreme weather conditions, in the best interests of the health and safety of the students, administration and staff of the school district, shall be exempt from the requirement that schools be kept in session a minimum of one hundred eighty (180) days. Any school district that closes its schools for reasons authorized under this section shall receive payment from the State Department of Education for per pupil expenditure for pupils in average daily attendance not to exceed ten (10) days.

(2) In the event weather conditions are cause for the closure of operations of schools in any local school district in any instance in which a state of emergency has not been declared pursuant to Section 37-151-7(3)(c), the State Board of Education may consider, on a case-by-case basis, requests submitted by local school districts to alter the school calendar consistent with the provision of that section.

**SOURCES:** Laws, 2011, ch. 313, § 1, eff from and after passage (approved Feb. 24, 2011.)

### **§ 37-13-65. Closing of schools for holidays and emergencies.**

Upon application from the school board, the superintendent of schools may close any school because of an epidemic prevailing in the school district or because of the death, resignation, sickness or dismissal of a teacher or teachers or because of any other emergency necessitating the closing of the school. However, all such schools so closed shall operate for the required full time after being reopened during the scholastic year, unless the school board of the local school district submits a plan to alter the school term that is approved by the State Board of Education under the authority of Section 37-13-63(2).



**SOURCES:** Codes, 1942, §§ 6274-11, 6411-12; Laws, 1953, Ex Sess, ch. 16, § 11; ch. 23, § 12; Laws, 1981, ch. 499, § 10; Laws, 1986, ch. 492, § 87; Laws, 2011, ch. 313, § 3, eff from and after passage (approved Feb. 24, 2011.)

**Amendment Notes** — The 2011 amendment added the language at the end of the second sentence beginning with “unless the school board of the local school district submits a plan to alter the school term.”

## § 37-13-67. Length of school day.

**SOURCES:** Codes, 1942, § 6274-12; Laws, 1953, Ex Sess, ch. 16, § 12; Laws, 2006, ch. 417, § 11; reenacted without change, Laws, 2009, ch. 345, § 12, eff from and after June 30, 2009.

**Editor’s Note** — This section was reenacted without change by Laws of 2009, ch. 345, § 12, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

## § 37-13-69. Observance of legal holidays.

**SOURCES:** Codes, 1942, § 6216-09; Laws, 1953, Ex Sess, ch. 26, § 9; Laws, 2006, ch. 417, § 12; reenacted without change, Laws, 2009, ch. 345, § 13, eff from and after June 30, 2009.

**Editor’s Note** — This section was reenacted without change by Laws of 2009, ch. 345, § 13, effective June 30, 2009.

Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

## MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW

SEC.

- 37-13-80. Office of Dropout Prevention created; qualifications and responsibilities of director; date for implementation of dropout prevention program; local school district responsibilities; dropout prevention plan to address student transition to home school districts; legislative intent.
- 37-13-85. Powers and duties.
- 37-13-90. Repealed.
- 37-13-91. Compulsory school attendance requirements generally; enforcement of law.
- 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.

**§ 37-13-80. Office of Dropout Prevention created; qualifications and responsibilities of director; date for implementation of dropout prevention program; local school district responsibilities; dropout prevention plan to address student transition to home school districts; legislative intent.**

(1) There is created the Office of Dropout Prevention within the State Department of Education. The office shall be responsible for the administration of a statewide dropout prevention program.

(2) The State Superintendent of Public Education shall appoint a director for the Office of Dropout Prevention, who shall meet all qualifications established by the State Superintendent of Public Education and the State Personnel Board. The director shall be responsible for the proper administration of the Office of Dropout Prevention and any other regulations or policies that may be adopted by the State Board of Education.

(3) Each school district shall implement a dropout prevention program approved by the Office of Dropout Prevention of the State Department of Education by the 2012-2013, and annually thereafter, school year.

(4) Each local school district will be held responsible for reducing and/or eliminating dropouts in the district. The local school district will be responsible for the implementation of dropout plans focusing on issues such as, but not limited to:

(a) Dropout Prevention initiatives that focus on the needs of individual local education agencies;

(b) Establishing policies and procedures that meet the needs of the districts;

(c) Focusing on the student-centered goals and objectives that are measureable;

(d) Strong emphasis on reducing the retention rates in grades kindergarten, first and second;

(e) Targeting subgroups that need additional assistance to meet graduation requirements; and

(f) Dropout recovery initiatives that focus on students age seventeen (17) through twenty-one (21), who dropped out of school.

(5) The Office of Dropout Prevention may provide technical assistance upon written request by the local school district. The Office of Dropout Prevention will collaborate with program offices within the Mississippi Department of Education to develop and implement policies and initiatives to reduce the state's dropout rate.

(6) Each school district's dropout prevention plan shall address how students will transition to the home school district from the juvenile detention centers.

(7) It is the intent of the Legislature that, through the statewide dropout prevention program and the dropout prevention programs implemented by each school district, the graduation rate for cohort classes will be increased to not less than eighty-five percent (85%) by the 2018-2019 school year. The Office

of Dropout Prevention shall establish graduation rate benchmarks for each two-year period from the 2008-2009 school year through the 2018-2019 school year, which shall serve as guidelines for increasing the graduation rate for cohort classes on a systematic basis to eighty-five percent (85%) by the 2018-2019 school year.

**SOURCES:** Laws, 2006, ch. 504, § 6; Laws, 2007, ch. 568, § 3; reenacted without change, Laws, 2009, ch. 345, § 14; Laws, 2011, ch. 442, § 12; Laws, 2012, ch. 461, § 1, eff from and after July 1, 2012.

**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

The 2011 amendment deleted the former last sentence in (2) which read: "The director shall report to the Legislature on the activities and programs of the office by January 1 of each year beginning in 2009."

The 2012 amendment deleted "and the Office of Compulsory School Attendance Enforcement" at the end of (1); substituted "2012-2013, and annually thereafter" for "2008-2009" near the end of (3); rewrote (4); added (5); and added "from the juvenile detention centers" to the end of (6).

### **§ 37-13-81. Office of Compulsory School Attendance Enforcement; creation.**

**SOURCES:** Laws, 1998, ch. 566, § 1; reenacted without change, Laws, 2002, ch. 610, § 1; reenacted without change, Laws, 2004, ch. 552, § 1; Laws, 2006, ch. 504, § 7; reenacted without change, Laws, 2009, ch. 345, § 15, eff from and after June 30, 2009.

**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

This section was reenacted without change by Laws of 2009, ch. 345, § 15, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

### **§ 37-13-83. Director; qualifications; responsibilities.**

**SOURCES:** Laws, 1998, ch. 566, § 2; reenacted without change, Laws, 2002, ch. 610, § 2; reenacted without change, Laws, 2004, ch. 552, § 2; Laws, 2006, ch. 504, § 8; reenacted without change, Laws, 2009, ch. 345, § 16, eff from and after June 30, 2009.

**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

This section was reenacted without change by Laws of 2009, ch. 345, § 16, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.



**§ 37-13-85. Powers and duties.**

The Office of Compulsory School Attendance Enforcement shall have the following powers and duties, in addition to all others imposed or granted by law:

(a) To establish any policies or guidelines concerning the employment of school attendance officers which serve to effectuate a uniform system of enforcement under the Mississippi Compulsory School Attendance Law throughout the state, and to designate the number of school attendance officers which shall be employed to serve in each school district area;

(b) To supervise and assist school attendance officer supervisors in the performance of their duties;

(c) To establish minimum standards for enrollment and attendance for the state and each individual school district, and to monitor the success of the state and districts in achieving the required levels of performance;

(d) To provide to school districts failing to meet the established standards for enrollment and attendance assistance in reducing absenteeism or the dropout rates in those districts;

(e) To establish any qualifications, in addition to those required under Section 37-13-89, for school attendance officers as the office deems necessary to further the purposes of the Mississippi Compulsory School Attendance Law;

(f) To develop and implement a system under which school districts are required to maintain accurate records that document enrollment and attendance in such a manner that the records reflect all changes in enrollment and attendance, and to require school attendance officers to submit information concerning public school attendance on a monthly basis to the office;

(g) To prepare the form of the certificate of enrollment required under the Mississippi Compulsory School Attendance Law and to furnish a sufficient number of the certificates of enrollment to each school attendance officer in the state;

(h) To provide to the State Board of Education statistical information concerning absenteeism, dropouts and other attendance-related problems as requested by the State Board of Education;

(i) To provide for the certification of school attendance officers;

(j) To provide for a course of training and education for school attendance officers, and to require successful completion of the course as a prerequisite to certification by the office as school attendance officers;

(k) To adopt any guidelines or policies the office deems necessary to effectuate an orderly transition from the supervision of school attendance officers by district attorneys to the supervision by the school attendance officer supervisors;

(l) Beginning on July 1, 1998, to require school attendance officer supervisors to employ persons employed by district attorneys before July 1, 1998, as school attendance officers without requiring such persons to submit an application or interview for employment with the State Department of Education;

(m) To adopt policies or guidelines linking the duties of school attendance officers to the appropriate courts, law enforcement agencies and community service providers; and

(n) To adopt any other policies or guidelines that the office deems necessary for the enforcement of the Mississippi Compulsory School Attendance Law; however, the policies or guidelines shall not add to or contradict with the requirements of Section 37-13-91.

**SOURCES:** Laws, 1998, ch. 566, § 3; reenacted without change, Laws, 2002, ch. 610, § 3; reenacted without change, Laws, 2004, ch. 552, § 3; reenacted without change, Laws, 2009, ch. 345, § 17; Laws, 2010, ch. 421, § 1; Laws, 2011, ch. 442, § 13, eff from and after July 1, 2011.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

The 2010 amendment substituted “before the last day of January following the preceding school year” for “before the first day of July for the immediately preceding school year” in (h).

The 2011 amendment deleted former (h) which read: “To publish a report each year on the work of school attendance officers in each school district concerning enforcement of the Mississippi Compulsory School Attendance Law. The report shall include: figures reflecting school attendance violations and reductions or increases in the school dropout rates; information describing attendance-related problems and proposed solutions for those problems; and any other information that the State Department of Education may require. The report shall be submitted to the State Board of Education and the Education Committees of the Senate and House of Representatives before the last day of January following the preceding school year”; and redesignated the remaining paragraphs accordingly.

### **§ 37-13-87. District office supervisors; powers and duties; qualifications; salaries.**

**SOURCES:** Laws, 1998, ch. 566, § 4; reenacted without change, Laws, 2002, ch. 610, § 4; reenacted without change, Laws, 2004, ch. 552, § 4; reenacted without change, Laws, 2009, ch. 345, § 18, eff from and after June 30, 2009.

**Editor’s Note** — This section was reenacted without change by Laws of 2009, ch. 345, § 18, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

### **§ 37-13-89. School attendance officers; qualifications; duties; salaries.**

**SOURCES:** Laws, 1998, ch. 566, § 5; Laws, 1999, ch. 529, § 1; reenacted and amended, Laws, 2002, ch. 576, § 1; reenacted without change, Laws, 2002, ch. 610, § 5; reenacted without change, Laws, 2004, ch. 552, § 5; reenacted without change, Laws, 2009, ch. 345, § 19, eff from and after June 30, 2009.

**Editor’s Note** — This section was reenacted without change by Laws of 2009, ch. 345, § 19, effective from and after June 30, 2009. Since the language of the section as

it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

### § 37-13-90. Repealed.

Repealed by Laws, 2009, ch. 345, s. 37, effective June 30, 2009.

§ 37-13-90. [Laws, 2002, ch. 610, § 7; Laws, 2004, ch. 552, § 6, eff from and after July 1, 2004.]

**Editor's Note** — Former 37-13-90 provided for the repeal of §§ 37-13-81 through 37-13-90, effective July 1, 2009.

### § 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(1) This section shall be referred to as the “Mississippi Compulsory School Attendance Law.”

(2) The following terms as used in this section are defined as follows:

(a) “Parent” means the father or mother to whom a child has been born, or the father or mother by whom a child has been legally adopted.

(b) “Guardian” means a guardian of the person of a child, other than a parent, who is legally appointed by a court of competent jurisdiction.

(c) “Custodian” means any person having the present care or custody of a child, other than a parent or guardian of the child.

(d) “School day” means not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

(e) “School” means any public school in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, except that the “nonpublic” school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) “Compulsory-school-age child” means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

(g) “School attendance officer” means a person employed by the State Department of Education pursuant to Section 37-13-89.

(h) “Appropriate school official” means the superintendent of the school district, or his designee, or, in the case of a nonpublic school, the principal or the headmaster.



(i) "Nonpublic school" means an institution for the teaching of children, consisting of a physical plant, whether owned or leased, including a home, instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, private, church, parochial and home instruction programs.

(3) A parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age, except under the following circumstances:

(a) When a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or education for handicapped or physically or mentally disadvantaged children.

(c) When a compulsory-school-age child is being educated in a legitimate home instruction program.

The parent, guardian or custodian of a compulsory-school-age child described in this subsection, or the parent, guardian or custodian of a compulsory-school-age child attending any nonpublic school, or the appropriate school official for any or all children attending a nonpublic school shall complete a "certificate of enrollment" in order to facilitate the administration of this section.

The form of the certificate of enrollment shall be prepared by the Office of Compulsory School Attendance Enforcement of the State Department of Education and shall be designed to obtain the following information only:

(i) The name, address, telephone number and date of birth of the compulsory-school-age child;

(ii) The name, address and telephone number of the parent, guardian or custodian of the compulsory-school-age child;

(iii) A simple description of the type of education the compulsory-school-age child is receiving and, if the child is enrolled in a nonpublic school, the name and address of the school; and

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a

legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

For the purposes of this subsection, a legitimate nonpublic school or legitimate home instruction program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An “unlawful absence” is an absence during a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. Days missed from school due to disciplinary suspension shall not be considered an “excused” absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district, or his designee:

(a) An absence is excused when the absence results from the compulsory-school-age child’s attendance at an authorized school activity with the prior approval of the superintendent of the school district, or his designee. These activities may include field trips, athletic contests, student conventions, musical festivals and any similar activity.

(b) An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child.

(f) An absence is excused when it results from the attendance of a compulsory-school-age child at the proceedings of a court or an administrative tribunal if the child is a party to the action or under subpoena as a witness.

(g) An absence may be excused if the religion to which the compulsory-school-age child or the child’s parents adheres, requires or suggests the observance of a religious event. The approval of the absence is within the discretion of the superintendent of the school district, or his designee, but approval should be granted unless the religion’s observance is of such duration as to interfere with the education of the child.

(h) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the

purpose of the absence is to take advantage of a valid educational opportunity such as travel, including vacations or other family travel. Approval of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.

(i) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that conditions are sufficient to warrant the compulsory-school-age child's non-attendance. However, no absences shall be excused by the school district superintendent, or his designee, when any student suspensions or expulsions circumvent the intent and spirit of the compulsory attendance law.

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in



a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

(8) The State Board of Education shall adopt rules and regulations for the purpose of reprimanding any school superintendents who fail to timely report unexcused absences under the provisions of this section.

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

**SOURCES:** Laws, 1977, ch. 483, § 1; Laws, 1982, Ex Sess, ch. 17, § 21; Laws, 1987, ch. 460, 1991, ch. 308, § 1; Laws, 1991, ch. 539, § 2; Laws, 1992, ch. 516, § 1; Laws, 1992, ch. 524, § 8; Laws, 1993, ch. 543, § 3; Laws, 1994, ch. 604, § 1; Laws, 1995, ch. 570, § 1; Laws, 1998, ch. 566, § 6; Laws, 2000, ch. 397, § 1; Laws, 2003, ch. 397, § 1; Laws, 2009, ch. 526, § 1, eff from and after July 1, 2009.

**Amendment Notes** — The 2009 amendment deleted “where an approval of the superintendent of the school district, or his designee, is gained before the absence, except in the case of emergency” from the end of (4)(e); and inserted “or his designee” in the first sentence of (6).

### **§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.**

(1) Beginning with the school year 2004-2005, the school boards of all school districts shall establish, maintain and operate, in connection with the

regular programs of the school district, an alternative school program or behavior modification program as defined by the State Board of Education for, but not limited to, the following categories of compulsory-school-age students:

(a) Any compulsory-school-age child who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious conduct;

(b) Any compulsory-school-age child referred to such alternative school based upon a documented need for placement in the alternative school program by the parent, legal guardian or custodian of such child due to disciplinary problems;

(c) Any compulsory-school-age child referred to such alternative school program by the dispositive order of a chancellor or youth court judge, with the consent of the superintendent of the child's school district;

(d) Any compulsory-school-age child whose presence in the classroom, in the determination of the school superintendent or principal, is a disruption to the educational environment of the school or a detriment to the interest and welfare of the students and teachers of such class as a whole; and

(e) No school district is required to place a child returning from out-of-home placement in the mental health, juvenile justice or foster care system in alternative school. Placement of a child in the alternative school shall be done consistently, and for students identified under the Individuals with Disabilities Education Act (IDEA), shall adhere to the requirements of the Individuals with Disabilities Education Improvement Act of 2004. If a school district chooses to place a child in alternative school the district will make an individual assessment and evaluation of that child in the following time periods:

(i) Five (5) days for a child transitioning from a group home, mental health care system, and/or the custody of the Department of Human Services, Division of Youth and Family Services custody;

(ii) Ten (10) days for a child transitioning from a dispositional placement order by a youth court pursuant to Section 43-21-605; and

(iii) An individualized assessment for youth transitioning from out-of-home placement to the alternative school shall include:

1. A strength needs assessment.

2. A determination of the child's academic strengths and deficiencies.

3. A proposed plan for transitioning the child to a regular education placement at the earliest possible date.

(2) The principal or program administrator of any such alternative school program shall require verification from the appropriate guidance counselor of any such child referred to the alternative school program regarding the suitability of such child for attendance at the alternative school program. Before a student may be removed to an alternative school education program, the superintendent of the student's school district must determine that the written and distributed disciplinary policy of the local district is being followed. The policy shall include standards for:

(a) The removal of a student to an alternative education program that will include a process of educational review to develop the student's individual instruction plan and the evaluation at regular intervals of the student's educational progress; the process shall include classroom teachers and/or other appropriate professional personnel, as defined in the district policy, to ensure a continuing educational program for the removed student;

(b) The duration of alternative placement; and

(c) The notification of parents or guardians, and their appropriate inclusion in the removal and evaluation process, as defined in the district policy. Nothing in this paragraph should be defined in a manner to circumvent the principal's or the superintendent's authority to remove a student to alternative education.

(3) The local school board or the superintendent shall provide for the continuing education of a student who has been removed to an alternative school program.

(4) A school district, in its discretion, may provide a program of general educational development (GED) preparatory instruction in the alternative school program. However, any GED preparation program offered in an alternative school program must be administered in compliance with the rules and regulations established for such programs under Sections 37-35-1 through 37-35-11 and by the State Board for Community and Junior Colleges. The school district may administer the General Educational Development (GED) Testing Program under the policies and guidelines of the GED Testing Service of the American Council on Education in the alternative school program or may authorize the test to be administered through the community/junior college district in which the alternative school is situated.

(5) Any such alternative school program operated under the authority of this section shall meet all appropriate accreditation requirements of the State Department of Education.

(6) The alternative school program may be held within such school district or may be operated by two (2) or more adjacent school districts, pursuant to a contract approved by the State Board of Education. When two (2) or more school districts contract to operate an alternative school program, the school board of a district designated to be the lead district shall serve as the governing board of the alternative school program. Transportation for students attending the alternative school program shall be the responsibility of the local school district. The expense of establishing, maintaining and operating such alternative school program may be paid from funds contributed or otherwise made available to the school district for such purpose or from local district maintenance funds.

(7) The State Board of Education shall promulgate minimum guidelines for alternative school programs. The guidelines shall require, at a minimum, the formulation of an individual instruction plan for each student referred to the alternative school program and, upon a determination that it is in a student's best interest for that student to receive general educational development (GED) preparatory instruction, that the local school board assign the



student to a GED preparatory program established under subsection (4) of this section. The minimum guidelines for alternative school programs shall also require the following components:

(a) Clear guidelines and procedures for placement of students into alternative education programs which at a minimum shall prescribe due process procedures for disciplinary and general educational development (GED) placement;

(b) Clear and consistent goals for students and parents;

(c) Curricula addressing cultural and learning style differences;

(d) Direct supervision of all activities on a closed campus;

(e) Attendance requirements that allow for educational and workforce development opportunities;

(f) Selection of program from options provided by the local school district, Division of Youth Services or the youth court, including transfer to a community-based alternative school;

(g) Continual monitoring and evaluation and formalized passage from one (1) step or program to another;

(h) A motivated and culturally diverse staff;

(i) Counseling for parents and students;

(j) Administrative and community support for the program; and

(k) Clear procedures for annual alternative school program review and evaluation.

(8) On request of a school district, the State Department of Education shall provide the district informational material on developing an alternative school program that takes into consideration size, wealth and existing facilities in determining a program best suited to a district.

(9) Any compulsory-school-age child who becomes involved in any criminal or violent behavior shall be removed from such alternative school program and, if probable cause exists, a case shall be referred to the youth court.

(10) The State Board of Education shall promulgate guidelines for alternative school programs which provide broad authority to school boards of local school districts to establish alternative education programs to meet the specific needs of the school district.

(11) Each school district having an alternative school program shall submit a report annually to the State Department of Education describing the results of its annual alternative school program review and evaluation undertaken pursuant to subsection (7)(k). The report shall include a detailed account of any actions taken by the school district during the previous year to comply with substantive guidelines promulgated by the State Board of Education under subsection (7)(a) through (j).

**SOURCES:** Laws, 1991, ch. 539, § 6; Laws, 1992, ch. 524, § 9; Laws, 1994, ch. 555, § 1; Laws, 1994, ch. 607, § 12; Laws, 1995, ch. 610, § 1; Laws, 1997, ch. 604, § 1; eff from and after July 1, 1997; Laws, 2000, ch. 559, § 3; Laws, 2004, ch. 563, § 3; Laws, 2007, ch. 326, § 1; Laws, 2009, ch. 511, § 1; Laws, 2011, ch. 424, § 1, eff from and after July 1, 2011.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Amendment Notes** — The 2009 amendment substituted present (7)(e) for former (7)(e), which read: “Full-day attendance with a rigorous workload and minimal time off”; and added (11).

The 2011 amendment deleted “best” preceding “interest and welfare” in (1)(d); added (1)(e); and made a minor stylistic change.

### ATTORNEY GENERAL OPINIONS

Education is not a fundamental right, and the proper test in determining whether a student's due process rights have been violated by a disciplinary action removing them from the school setting is whether such action was rationally related to legitimate governmental interests. Fleming, July 15, 2005, A.G. Op. 05-0320.

If acts of a student, although not rising to the level of a felony, are such that the student poses a threat to the safety of

himself or others or will disrupt the educational process at the Alternative School, then the School Board may remove the student from the school system altogether. If a compulsory-school-age child is expelled from the Alternative School for criminal or violent behavior, the school district must refer the case to the youth court if probable cause exists. Maples, February 2, 2007, A.G. Op. #07-00025, 2007 Miss. AG LEXIS 1.

### COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM

SEC.

37-13-134. Comprehensive School Health Education Program.

37-13-134.1. School health grant pilot program; purpose; components of implementation plan.

37-13-137. State Board of Education to develop regulations to promote healthy food choices and food preparation for school children; Office of Healthy Schools to train certain school district personnel on healthy food service practices.

### § 37-13-134. Comprehensive School Health Education Program.

(1) The Legislature recognizes that there is a problem with Mississippi student inactivity and obesity, and therefore requires the following guidelines for school district physical education, health education and physical activity and fitness classes:

Kindergarten through Grade 8: One hundred fifty (150) minutes per week of physical activity-based instruction and forty-five (45) minutes per week of health education instruction, as defined by the State Board of Education.

Grades 9 through 12: ½ Carnegie unit requirement in physical education or physical activity for graduation.

All instruction in physical education, health education and physical activity must be based on the most current state standards provided by the State Department of Education.

(2) Beginning with the 2006-2007 school year, each local school board shall, consistent with regulations adopted by the State Board of Education,

adopt a school wellness plan which shall promote a healthy lifestyle for Mississippi's school children and staff. Beginning with the 2008-2009 school year, the school wellness plan shall also promote increased physical activity, healthy eating habits and abstinence from the use of tobacco and illegal drugs through programs that incorporate healthy lifestyle choices into core subject areas which may be developed in partnership with the Institute for America's Health.

(3) Beginning with the 2012-2013 school year, the State Board of Education, in consultation with the State Department of Health, shall have the authority to establish a school health pilot program to improve student health so that all students can fully participate and be successful in school. The school health pilot program shall be implemented in local school districts, as provided in Section 37-13-134.1.

(4) The Legislature shall appropriate sufficient state-source funds for the State Department of Education to employ a physical activity coordinator to assist districts on current and effective practices and on implementation of physical education and physical activity programs.

(5) The physical activity coordinator employed under Section 37-13-133 must have the qualifications prescribed in any of the following paragraphs, which are listed in the order of preference:

(a) A doctorate in physical education, exercise science or a highly related field, and at least three (3) years of experience in teaching physical education in Grades K-12 or in physical activity promotion/fitness leadership; or

(b) A master's degree in physical education, exercise science or a highly related field, and at least five (5) years of experience in teaching physical education in Grades K-12 or in physical activity promotion/fitness leadership; or

(c) A bachelor's degree in physical education, a teacher's license, and at least seven (7) years of experience in teaching physical education in Grades K-12 or in physical activity promotion/fitness leadership.

(6) The Governor's Commission on Physical Fitness and Sports created under Section 7-1-551 et seq., the Mississippi Council on Obesity Prevention and Management created under Section 41-101-1 et seq., the Task Force on Heart Disease and Stroke Prevention created under Section 41-103-1 et seq., the Mississippi Alliance for Health, Physical Education, Recreation and Dance, and the Mississippi Alliance for School Health shall provide recommendations to the State Department of Education regarding the employment of the physical activity coordinator. The department shall consider the recommendations of those entities in employing the physical activity coordinator.

(7) The physical activity coordinator shall present a state physical activity plan each year to the Governor's Commission on Physical Fitness and Sports, the Mississippi Council on Obesity Prevention and Management, the Task Force on Heart Disease and Stroke Prevention, the Mississippi Alliance for Health, Physical Education, Recreation and Dance, and the Mississippi Alliance for School Health.



(8) The physical activity coordinator shall monitor the districts for adherence to current Mississippi school accountability standards and for implementation of the physical education curriculum on file with the State Department of Education. The State Department of Education shall monitor and act as a clearinghouse for the activities of the local school health councils established pursuant to subsection (8) of this section.

(9)(a) The local school board of each school district shall establish a local school health council for each school which shall ensure that local community values are reflected in the local school's wellness plan to address school health. Such councils shall be established no later than November 1, 2006.

(b) The local school health council's duties shall include, but not be limited to, the following:

(i) Recommend age appropriate curriculum and the number of hours of instruction to be provided in health and physical activity-based education, provided that the number of hours shall not be less than that required by Section 37-13-134;

(ii) Recommend appropriate practices that include a coordinated approach to school health designed to prevent obesity, cardiovascular disease, Type II diabetes and other health risks, through coordination of:

1. Health education;
2. Physical education;
3. Nutritional services;
4. Parental/Community involvement;
5. Instruction to prevent the use of tobacco, drugs and alcohol;
6. Physical activity;
7. Health services;
8. Healthy environment;
9. Counseling and psychological services;
10. Healthy lifestyles; and
11. Staff wellness.

(iii) Provide guidance on the development and implementation of the local school wellness plan.

(c) The local school board shall appoint members to the local school health council. At a minimum, the school board shall appoint one (1) person from each of the following groups:

- (i) Parents who are not employed by the school district;
- (ii) The director of local school food services;
- (iii) Public schoolteachers;
- (iv) Public school administrators;
- (v) District students;
- (vi) Health care professionals;
- (vii) The business community;
- (viii) Law enforcement;
- (ix) Senior citizens;
- (x) The clergy;
- (xi) Nonprofit health organizations; and

(xii) Faith-based organizations.

(10) Nothing in this section shall be construed to prohibit or limit the sale or distribution of any food or beverage item through fund-raisers conducted by students, teachers, school groups, or parent groups when the items are intended for sale off the school campus.

**SOURCES:** Laws, 2002, ch. 585, § 2; Laws, 2003, ch. 436, § 1; Laws, 2006, ch. 401, § 1; Laws, 2007, ch. 521, § 2; Laws, 2012, ch. 555, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment added (3) and redesignated the remaining subsections accordingly.

**§ 37-13-134.1. School health grant pilot program; purpose; components of implementation plan.**

(1) Subject to available funding, the State Department of Education, in consultation with the State Department of Health, shall establish the school health grant pilot program to improve student health by assisting local school districts in implementing a school health program. In order to qualify for a school health grant, a school district shall submit a detailed implementation plan, developed in accordance with the guidelines for a school health program developed by the State Department of Education, and including the following components:

(a) A dedicated school health coordinator and technical and administrative support for collection of data and program evaluation.

(b) A description of how the school district currently addresses physical activity, nutrition, and other obesity prevention measures.

(c) A description of how the school district would use the state grant to augment what it is currently doing, including defining priorities based on the students' health need and meeting education performance indicators, developing an action plan for addressing those needs based on realistic goals and measurable objectives, establishing a timeline for implementation, and developing and maintaining a system to evaluate progress and outcomes for the program.

(d) All school districts receiving grants will report annually to the State Department of Education progress towards the achievement of state education performance indicators and standards and requirements relating to physical activity and nutrition.

(2) The amount in the school health grant pilot program shall be limited to the amount appropriated and shall be available to school districts based on the guidelines developed by the State Department of Education.

(3) Any grants made to school district shall be expended to supplement and not supplant any funds already expended as school health programs. For this purpose, expenditures of components enumerated in subsection (2) of this section for the current fiscal year shall be considered the base expenditure on school health and any school district receiving grant funds shall maintain this base.

(4) There is created in the State Treasury a fund into which any public or private funds from any source shall be deposited for the support of the activities of coordinated school health grant pilot program.

(5) State grants are only for coordination and improvement of school health programs to improve student health in accordance with the detailed plan submitted in accordance with subsection (2) of this section.

(6) The State Department of Education and the State Department of Health shall coordinate existing school health programs, grants and initiatives. To the extent possible, existing contracts and waiver requirements and funding, including Medicaid funding, shall also be coordinated.

(7) The use of grant funds shall be subject to audit by the Office of the State Auditor.

**SOURCES:** Laws, 2012, ch. 555, § 2, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in this section. In (1)(c), “school district” was substituted for “agency” and in (2), “coordinated” was deleted following “The amount in the.” The Joint Committee ratified the corrections at its August 16, 2012, meeting.

**§ 37-13-137. State Board of Education to develop regulations to promote healthy food choices and food preparation for school children; Office of Healthy Schools to train certain school district personnel on healthy food service practices.**

(1) The State Board of Education shall adopt regulations as provided in this section not later than March 1, 2008, which shall be effective for compliance by school districts beginning with the 2008-2009 school year, for the Child Nutrition School Breakfast and Lunch Programs that are not in conflict with the regulations of the United States Department of Agriculture (USDA). The regulations shall take into account the most recent and advanced scientific principles regarding good human health and fitness, and the effect of the regulations must be that the good health, well-being and fitness of Mississippi school children shall be advanced. The regulations shall include, but not be limited to, the following areas:

- (a) Healthy food and beverage choices;
- (b) Healthy food preparation;
- (c) Marketing of healthy food choices to students and staff;
- (d) Food preparation ingredients and products;
- (e) Minimum and maximum time allotment for students and staff lunch and breakfast periods;
- (f) The availability of food items during the lunch and breakfast periods of the Child Nutrition School Breakfast and Lunch Programs; and
- (g) Methods to increase participation in the Child Nutrition School Breakfast and Lunch Programs.

(2) The Office of Healthy Schools of the State Department of Education shall provide comprehensive training for superintendents, business managers,



food service directors and food service managers of a local school district, or the designees appointed by those individuals for training purposes, as required by the department on marketing healthy foods, creating a healthy cafeteria environment, effective and efficient food service operations, the standards and expectations of food service staff, and other topics as identified by the department. The department may determine the time and location of the trainings and the frequency with which they are held. Persons employed by a local school district having the certification as a Food Service Administrator III or IV shall be exempt from the training requirements of this subsection.

(3) Local school districts may adopt rules and regulations that may be more stringent but not in conflict with those adopted by the State Board of Education under this section.

**SOURCES:** Laws, 2007, ch. 521, § 3; Laws, 2010, ch. 363, § 1, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment rewrote (2).

## SEX AND ABSTINENCE EDUCATION

SEC.

- 37-13-171. Implementation of abstinence-only or abstinence-plus education; State Department of Education approval of curriculum for sex-related education required; components of abstinence-only and abstinence-plus education; parent programs; separation of students by gender during sex-related education instruction [Repealed effective July 1, 2016].
- 37-13-173. Notice to parents; right to request inclusion of children in program of instruction; review of materials.

**§ 37-13-171. Implementation of abstinence-only or abstinence-plus education; State Department of Education approval of curriculum for sex-related education required; components of abstinence-only and abstinence-plus education; parent programs; separation of students by gender during sex-related education instruction [Repealed effective July 1, 2016].**

(1) The local school board of every public school district shall adopt a policy to implement abstinence-only or abstinence-plus education into its curriculum by June 30, 2012, which instruction in those subjects shall be implemented not later than the start of the 2012-2013 school year or the local school board shall adopt the program which has been developed by the Mississippi Department of Human Services and the Mississippi Department of Health. The State Department of Education shall approve each district's curriculum for sex-related education and shall establish a protocol to be used by districts to provide continuity in teaching the approved curriculum in a manner that is age, grade and developmentally appropriate.

(2) Abstinence-only education shall remain the state standard for any sex-related education taught in the public schools. For purposes of this section,

abstinence-only education includes any type of instruction or program which, at an appropriate age and grade:

(a) Teaches the social, psychological and health gains to be realized by abstaining from sexual activity, and the likely negative psychological and physical effects of not abstaining;

(b) Teaches the harmful consequences to the child, the child's parents and society that bearing children out of wedlock is likely to produce, including the health, educational, financial and other difficulties the child and his or her parents are likely to face, as well as the inappropriateness of the social and economic burden placed on others;

(c) Teaches that unwanted sexual advances are irresponsible and teaches how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances;

(d) Teaches that abstinence from sexual activity before marriage, and fidelity within marriage, is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases and related health problems. The instruction or program may include a discussion on condoms or contraceptives, but only if that discussion includes a factual presentation of the risks and failure rates of those contraceptives. In no case shall the instruction or program include any demonstration of how condoms or other contraceptives are applied;

(e) Teaches the current state law related to sexual conduct, including forcible rape, statutory rape, paternity establishment, child support and homosexual activity; and

(f) Teaches that a mutually faithful, monogamous relationship in the context of marriage is the only appropriate setting for sexual intercourse.

(3) A program or instruction on sex-related education need not include every component listed in subsection (2) of this section for abstinence-only education. However, no program or instruction under an abstinence-only curriculum may include anything that contradicts the excluded components. For purposes of this section, abstinence-plus education includes every component listed under subsection (2) of this section that is age and grade appropriate, in addition to any other programmatic or instructional component approved by the department, which shall not include instruction and demonstrations on the application and use of condoms. Abstinence-plus education may discuss other contraceptives, the nature, causes and effects of sexually transmitted diseases, or the prevention of sexually transmitted diseases, including HIV/AIDS, along with a factual presentation of the risks and failure rates.

(4) Any course containing sex-related education offered in the public schools shall include instruction in either abstinence-only or abstinence-plus education.

(5) Local school districts, in their discretion, may host programs designed to teach parents how to discuss abstinence with their children.

(6) There shall be no effort in either an abstinence-only or an abstinence-plus curriculum to teach that abortion can be used to prevent the birth of a baby.

(7) At all times when sex-related education is discussed or taught, boys and girls shall be separated according to gender into different classrooms, sex-related education instruction may not be conducted when boys and girls are in the company of any students of the opposite gender.

(8) This section shall stand repealed on July 1, 2016.

**SOURCES:** Laws, 1998, ch. 510, § 1; Laws, 2011, ch. 430, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment added (1) and (6) through (8); inserted the (2) designation, substituted “remain” for “be” and added “and grade” at the end of (2); rewrote the second sentence in (2)(d); redesignated former (2) through (4) as (3) through (5); rewrote (3) and (4); and substituted “abstinence-only education” for “abstinence education” throughout the section.

### **§ 37-13-173. Notice to parents; right to request inclusion of children in program of instruction; review of materials.**

Each school providing instruction or any other presentation on human sexuality in the classroom, assembly or other official setting shall be required to provide no less than one (1) week’s written notice thereof to the parents of children in such programs of instruction. The written notice must inform the parents of their right to request the inclusion of their child for such instruction or presentation. The notice also must inform the parents of the right, and the appropriate process, to review the curriculum and all materials to be used in the lesson or presentation. Upon the request of any parent, the school shall excuse the parent’s child from such instruction or presentation, without detriment to the student.

**SOURCES:** Laws, 1998, ch. 510, § 2; Laws, 2011, ch. 430, § 3, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment substituted “inclusion” for “exclusion” following “the parents of their right to request the” in the second sentence; and made a minor stylistic change.

## **CHAPTER 14**

### **Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Act of 2007**

SEC.

37-14-3.

Office of Healthy Schools of state department of education to administer school nurse program; transfer of School Nurse Intervention Program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools.



**§ 37-14-3. Office of Healthy Schools of state department of education to administer school nurse program; transfer of School Nurse Intervention Program to Office of Healthy Schools; responsibilities of program nurses; duties of Office of Healthy Schools.**

(1) The State Department of Education is designated as the state agency responsible for the administration and supervision of the school nurse program as an education and wellness curriculum in the public schools of the State of Mississippi. The public school nurse program administered by the State Department of Education shall be known and may be cited as the "Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Program." It is the intent of the Legislature that all funds made available to the State Department of Education for the purpose of employing school nurses shall be administered by the State Department of Education.

(2) The State Department of Education, through the Office of Healthy Schools, shall develop standards, procedures and criteria for the public school nurse programs in Kindergarten through Grade 12. The Office of Healthy Schools of the State Department of Education shall assume the responsibility for promoting a statewide school nurse program designed to prepare local school districts to incorporate the school program into their local educational programs.

(3) From and after July 1, 2007, the School Nurse Intervention Program administered and funded by the State Department of Health shall be transferred to the Office of Healthy Schools of the State Department of Education. Any administrative personnel employed by the State Department of Health for the administration of school nurses under the School Nurse Intervention Program may be considered for employment by the Office of Healthy Schools of the State Department of Education for the purpose of coordinating the employment of school nurses in the school districts. Any administrative personnel formerly employed by the Partnership for a Healthy Mississippi, Inc., for the administration of school nurses in the public schools may be considered for employment by the Office of Healthy Schools of the State Department of Education for the purpose of coordinating the employment of school nurses in the school districts. All records and unexpended balances of accounts in the School Nurse Intervention Program relating to the employment of school nurses shall be transferred to the Office of Healthy Schools in the State Department of Education in accordance with the transfer of responsibility under this chapter.

(4) The nurses in the Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Program shall have the following specific responsibilities:

- (a) Serve as the coordinator of the health services program and provide nursing care;
- (b) Provide health education to students;
- (c) Implement activities to promote health and prevent tobacco, alcohol and substance use and abuse;

(d) Identify health and safety concerns in the school environment and promote a nurturing social environment;

(e) Administer medications and help students manage their health problems;

(f) Support healthy food services programs;

(g) Promote healthy physical education, sports policies and practices;

(h) Promote dropout prevention programs; and

(i) Participate in allied health programs to introduce students to health careers.

(5) The Office of Healthy Schools of the State Department of Education shall provide resources to all public school nurses so that those schools with school nurses will be prepared to provide health education in Mississippi schools and support the Mississippi Comprehensive Health Framework, Mississippi Physical Education Framework, Wellness Policy, coordinated approach to school health, and other resources required by the State Board of Education.

(6) In administering the Mary Kirkpatrick Haskell-Mary Sprayberry Public School Nurse Program, the Office of Healthy Schools of the State Department of Education shall perform the following duties:

(a) Execute any contracts, agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity that are necessary to accomplish the purposes of this chapter;

(b) Receive grants or any other contributions made to the State Board of Education to be used for specific purposes related to the goals of this chapter;

(c) Submit to the State Auditor any financial records that are necessary for the Auditor to perform an annual audit of the commission as required by law;

(d) Adopt any rules or regulations that are necessary to carry out the purposes of this chapter;

(e) Develop criteria to measure the effectiveness of a school nurse;

(f) Communicate to superintendents and principals how to maximize the effectiveness of a public school nurse;

(g) Develop recommended salary structure for school districts to use when hiring a school nurse;

(h) Communicate to superintendents, principals and other appropriate school officials regarding the statutes and regulations prohibiting the use of tobacco by school personnel on school property and at school events, and to monitor the effectiveness of this ban;

(i) Implement policies to reduce unnecessary paperwork by public school nurses; and

(j) Take any other actions that are necessary to carry out the purposes of this chapter.

**SOURCES:** Laws, 2007, ch. 573, § 2; Laws, 2011, ch. 442, § 14, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment deleted former (6)(c), which read: “Submit an annual report to the Legislature regarding the operation of the School Nurse Intervention Program”; deleted former (6)(j) which read: “Report to the Senate and House Public Health and Welfare and Education Committees’ Chairmen annually on the number of public school nurses, in which schools they are employed, results of their work in relation to the measures in paragraph (f)”; and redesignated former (6)(d) through (6)(i) as (6)(c) through (6)(h) and (6)(k) and (l) as (6)(i) and (j).

## CHAPTER 15

### Public Schools; Records, Enrollment and Transfer of Pupils

SEC.

- 37-15-1. Maintenance of permanent records and cumulative folders for pupils; requirement of certified birth certificate or other evidence of age.
- 37-15-3. Storage of cumulative folders; access to records; disposition of records upon transfer of student between schools; destruction of records.
- 37-15-29. Minor child to attend school in district of residence; exceptions.
- 37-15-33. Testing of transfer students; assignment of students.
- 37-15-37. Repealed.
- 37-15-38. Dual enrollment programs for dual high school and postsecondary credit; Mississippi Works Dual Enrollment-Dual Credit Option Program.
- 37-15-39. Legislative purpose; definitions; school districts to offer pre-advanced placement courses; funding to be provided for sophomores to take nationally recognized aptitude test for advanced placement classes; minimum number of advanced placement courses to be offered.

#### § 37-15-1. Maintenance of permanent records and cumulative folders for pupils; requirement of certified birth certificate or other evidence of age.

The State Board of Education shall prepare and provide necessary forms for keeping permanent records and cumulative folders for each pupil in the public schools of the state. In the permanent record and cumulative folders, the teachers and principals shall keep information concerning the pupil’s date of birth, as verified by the documentation authorized in this section, record of attendance, grades and withdrawal from the school, including the date of any expulsion from the school system and a description of the student’s act or behavior resulting in the expulsion. The records also shall contain information pertaining to immunization and such other information as the State Board of Education may prescribe. The cumulative folder, in addition to that information maintained in the permanent records, also shall contain such other information as the State Board of Education shall prescribe. It shall be the responsibility of the person in charge of each school to enforce the requirement for evidence of the age of each pupil before enrollment. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

- (a) A certified birth certificate;
- (b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by a parent, grandparent or custodian;



(c) An insurance policy on the child's life which has been in force for at least two (2) years;

(d) A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent, grandparent or custodian;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least four (4) years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by a parent, grandparent or custodian. Any child enrolling in Kindergarten or Grade 1 shall present the required evidence of age upon enrollment. Any child in Grades 2 through 12 not in compliance at the end of sixty (60) days from enrollment shall be suspended until in compliance.

**SOURCES:** Codes, 1942, § 6225-01; Laws, 1953, Ex Sess, ch. 24, § 1; Laws, 1974, ch. 451, § 1; Laws, 1980, ch. 424, § 1; Laws, 1989, ch. 511, § 1; Laws, 1990, ch. 535, § 1; Laws, 1995, ch. 480, § 1; Laws, 2002, ch. 557, § 1; Laws, 2003, ch. 416, § 6; Laws, 2007, ch. 416, § 7; Laws, 2008, ch. 382, § 1, eff from and after July 1, 2008.

**Amendment Notes** — The 2008 amendment deleted the former last paragraph, which read: "This section shall stand repealed on July 1, 2010."

### **§ 37-15-3. Storage of cumulative folders; access to records; disposition of records upon transfer of student between schools; destruction of records.**

Such cumulative folders as are provided for in Section 37-15-1 shall be kept in the school wherein the pupils are in attendance. Both the permanent records and the cumulative folders shall be available to school officials, including teachers within the school district who have been determined by the school district to have legitimate educational interests. In no case, however, shall such records be available to the general public. Transcripts of courses and grades may be furnished when requested by the parent or guardian or eligible pupil as prescribed in the Family Educational Rights and Privacy Act of 1974, as amended, 20 USC Section 1232. Such records shall be kept for each pupil throughout his entire public school enrollment period. In the event a pupil transfers to a public school, then the cumulative folder shall be furnished to the head of the school to which the pupil transfers; if a pupil transfers to a private school, then a copy of the cumulative folder shall be furnished to the head of the school to which the pupil transfers. The permanent record shall be kept permanently by the school district from which the pupil transferred.

At no time may a permanent record of a student be destroyed, but cumulative folders may be destroyed by order of the school board of the school district in not less than five (5) years after the permanent record of the pupil has become inactive and has been transferred to the central depository of the district. Provided, however, that where a school district makes complete copies of inactive permanent records on photographic film, microfilm, or any other

acceptable form of medium for storage which may be reproduced as needed, such permanent records may be destroyed after the photographic film or microfilm copy has been stored in the central depository of the district.

**SOURCES:** Codes, 1942, § 6225-02; Laws, 1953, Ex Sess, ch. 24, § 2; Laws, 1954, ch. 266; Laws, 1974, ch. 451, § 3; Laws, 1980, ch. 424, § 3; Laws, 1986, ch. 492, § 89; Laws, 1995, ch. 480, § 3; Laws, 2009, ch. 444, § 1, eff from and after July 1, 2009.

**Amendment Notes** — The 2009 amendment, in the last sentence of the second paragraph, added “or any other acceptable form of medium for storage” following “permanent records on photographic film,” and made minor stylistic changes.

## **§ 37-15-9. Requirements for enrollment of children in public schools.**

**Editor’s Note** — Laws of 2011, ch. 409, § 1, provides:

“SECTION 1. (1) The State Department of Education shall conduct a survey of each public school district in this state in order to determine the feasibility of allowing children who attain five (5) years of age on or before July 1 to enroll in public school kindergarten, as opposed to the existing requirement that a child attain the age of five (5) years on or before September 1 of the school year in which the child is to be enrolled in a full-day public school kindergarten. The survey should assess student preparedness, transition and adaptation to the school and learning environment, effectiveness of instruction as applied to student retention, and any other component the department deems necessary to make an accurate determination of the feasibility of a July 1 enrollment age.

“(2) The department shall submit a report of the findings of the survey conducted under subsection (1) of this section to the Legislature for consideration by January 1, 2012.”

## **ATTORNEY GENERAL OPINIONS**

Education is not a fundamental right, and the proper test in determining whether a student’s due process rights have been violated by a disciplinary action removing them from the school setting is

whether such action was rationally related to legitimate governmental interests. Fleming, July 15, 2005, A.G. Op. 05-0320.

## **§ 37-15-29. Minor child to attend school in district of residence; exceptions.**

(1) Except as provided in subsections (2), (3) and (4) of this section, no minor child may enroll in or attend any school except in the school district of his residence, unless such child be lawfully transferred from the school district of his residence to a school in another school district in accord with the statutes of this state now in effect or which may be hereafter enacted.

(2) Those children whose parent(s) or legal guardian(s) are instructional personnel or certificated employees of a school district may at such employee’s discretion enroll and attend the school or schools of their parent’s or legal guardian’s employment regardless of the residence of the child.

(3) No child shall be required to be transported in excess of thirty (30) miles on a school bus from his or her home to school, or in excess of thirty (30) miles from school to his or her home, if there is another school in an adjacent school district located on a shorter school bus transportation route by the nearest traveled road. Those children residing in such geographical situations may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the nearer school, regardless of the residence of the child. In the event the parent or legal guardian of such child and the school board are unable to agree on the school bus mileage required to transport the child from his or her home to school, an appeal shall lie to the State Board of Education, or its designee, whose decision shall be final. The school districts involved in the appeal shall provide the Mississippi Department of Education with any school bus route information requested, including riding the buses as necessary, in order to measure the bus routes in question, as needed by the State Board of Education in considering the appeal.

(4) Those children lawfully transferred from the school district of his residence to a school in another school district prior to July 1, 1992, may, at the discretion of their parent(s) or legal guardian(s), continue to enroll and attend school in the transferee school district. Provided further, that the brother(s) and sister(s) of said children lawfully transferred prior to July 1, 1992, may also, at the discretion of their parent(s) or legal guardian(s), enroll and attend school in the transferee school district.

**SOURCES:** Codes, 1942, § 6334-11; Laws, 1960, ch. 315; Laws, 1989, ch. 508, § 1; Laws, 1990, ch. 565, § 1; Laws, 1991, ch. 349, § 1; Laws, 1992, ch. 410, § 1; Laws, 2010, ch. 483, § 8, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment added the last sentence in (3).

### **§ 37-15-31. Transfer of students between school districts generally.**

#### **ATTORNEY GENERAL OPINIONS**

Transfer of students between school districts is a purely discretionary function of the school boards. Jones, July 22, 2005, A.G. Op. 05-0311.

A school district has discretion to adopt a policy to allow enrollment and atten-

dance of children of a cafeteria worker, insurance clerk, payroll clerk, bus driver and crossing guard who reside outside the district but within the state. Bordis, Oct. 6, 2006, A.G. Op. 06-0489.

### **§ 37-15-33. Testing of transfer students; assignment of students.**

All students seeking to transfer from any school, public, private or homeschool within or outside of the boundaries of the State of Mississippi, to a public school within the state may be required to take a test to determine the



grade and class to which the pupil shall be assigned at the time of pupil transfer.

The administrative head of each public school shall administer the test or tests to such pupil or pupils as shall apply for transfer to such public school. Such test or tests shall be administered within thirty (30) days after the filing of each such application for transfer. Notice of the giving of such test shall be given the applicant not less than five (5) days prior to the date of the administration of such test.

No transfer of a pupil shall be effected until the test has been given and the pupil is assigned according to the grade and class for which the test shows he is best suited. No pupil shall be assigned to a grade and class more than three (3) grades above or below the grade or class that the pupil would have been assigned to had the pupil remained in the school from which the transfer is being made. Pending the administration of the test herein provided for and its grading and an assignment based thereon the superintendent of the school district or the attendance center principal to which the pupil seeks admission may assign the pupil temporarily to a grade and class comparable to that in which the pupil would have been had the pupil continued in the school from which the transfer was being made.

If any student is transferred or reassigned within the school district by order of the board of trustees of that school district as designated by law of the State of Mississippi and not at his own request, the requirement of that pupil's taking the standardized test shall be waived. Likewise, if a pupil shall transfer from one school district to another school district in the manner provided and required by the laws of the State of Mississippi, the requirement of such pupil taking the standardized test shall be waived.

**SOURCES:** Codes, 1942, § 6225-11; Laws, 1964, 1st Ex Sess, ch. 26, §§ 1-5; Laws, 1988, ch. 466, § 2; Laws, 2011, ch. 422, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment substituted “public, private, or homeschool” for “public or private” in the first paragraph.

### § 37-15-37. Repealed.

Repealed by Laws, 2011, ch. 511, § 4, effective from and after passage (Approved April 26, 2011.)

§ 37-15-37. [Laws, 2004, ch. 563, § 2, eff from and after July 1, 2004.]

**Editor's Note** — Former § 37-15-37 provided authority to local school districts and the Board of Trustees of State Institutions of Higher Learning to establish dual enrollment programs allowing certain high school students to enroll in state institutions of higher learning. For present similar provisions, see § 37-15-38.

**§ 37-15-38. Dual enrollment programs for dual high school and postsecondary credit; Mississippi Works Dual Enrollment-Dual Credit Option Program.**

(1) The following phrases have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) A dual enrolled student is a student who is enrolled in a community or junior college or state institution of higher learning while enrolled in high school.

(b) A dual credit student is a student who is enrolled in a community or junior college or state institution of higher learning while enrolled in high school and who is receiving high school and college credit for postsecondary coursework.

(2) A local school board, the Board of Trustees of State Institutions of Higher Learning and the State Board for Community Colleges shall establish a dual enrollment system under which students in the school district who meet the prescribed criteria of this section may be enrolled in a postsecondary institution in Mississippi while they are still in school.

(3) **Dual credit eligibility.** — Before credits earned by a qualified high school student from a community or junior college or state institution of higher learning may be transferred to the student's home school district, the student must be properly enrolled in a dual enrollment program.

(4) **Admission criteria for dual enrollment in community and junior college or university programs.** The boards of trustees of the community and junior college districts and the Board of Trustees of State Institutions of Higher Learning may recommend to the State Board of Education admission criteria for dual enrollment programs under which high school students may enroll at a community or junior college or university while they are still attending high school and enrolled in high school courses. Students may be admitted to enroll in community or junior college courses under the dual enrollment programs if they meet that individual institution's stated dual enrollment admission requirements.

(5) **Tuition and cost responsibility.** Tuition and costs for university-level courses and community and junior college courses offered under a dual enrollment program may be paid for by the postsecondary institution, the local school district, the parents or legal guardians of the student, or by grants, foundations or other private or public sources. Payment for tuition and any other costs must be made directly to the credit-granting institution.

(6) **Transportation responsibility.** Any transportation required by a student to participate in the dual enrollment program is the responsibility of the parent, custodian or legal guardian of the student. Transportation costs may be paid from any available public or private sources, including the local school district.

(7) **School district average daily attendance credit.** When dually enrolled, the student may be counted, for adequate education program funding purposes, in the average daily attendance of the public school district in which the student attends high school.

(8) **High school student transcript transfer requirements.** Grades and college credits earned by a student admitted to a dual credit program must be recorded on the high school student record and on the college transcript at the university or community or junior college and high school where the student attends classes. The transcript of the university or community or junior college coursework may be released to another institution or applied toward college graduation requirements.

(9) **Determining factor of prerequisites for dual enrollment courses.** Each university and community or junior college participating in a dual enrollment program shall determine course prerequisites. Course prerequisites shall be the same for dual enrolled students as for regularly enrolled students at that university or community or junior college.

(10) **Process for determining articulation of curriculum between high school, university, and community and junior college courses.**

All dual credit courses must meet the standards established at the postsecondary level. Postsecondary level developmental courses may not be considered as meeting the requirements of the dual credit program. Dual credit memorandum of understandings must be established between each postsecondary institution and the school district implementing a dual credit program.

(11) **Ineligible courses for dual credit programs.** Any course that is required for subject area testing as a requirement for graduation from a public school in Mississippi is not eligible for dual credit.

(12) **Eligible courses for dual credit programs.** Courses eligible for dual credit include, but are not necessarily limited to, foreign languages, advanced math courses, advanced science courses, performing arts, advanced business and technology, and career and technical courses. All courses being considered for dual credit must receive unconditional approval from the superintendent of the local school district and the chief instructional officer at the participating community or junior college or university in order for college credit to be awarded. A university or community or junior college shall make the final decision on what courses are eligible for semester hour credits.

(13) **High school Carnegie unit equivalency.** One (1) three-hour university or community or junior college course is equal to one (1) high school Carnegie unit.

(14) **Course alignment.** The universities, community and junior colleges and the State Department of Education shall periodically review their respective policies and assess the place of dual credit courses within the context of their traditional offerings.

(15) **Maximum dual credits allowed.** It is the intent of the dual enrollment program to make it possible for every eligible student who desires to earn a semester's worth of college credit in high school to do so. A qualified dually enrolled high school student must be allowed to earn an unlimited number of college or university credits for dual credit.

(16) **Dual credit program allowances.** A student may be granted credit delivered through the following means:

(a) Examination preparation taught at a high school by a qualified teacher. A student may receive credit at the secondary level after completion



of an approved course and passing the standard examination, such as an Advanced Placement or International Baccalaureate course through which a high school student is allowed CLEP credit by making a three (3) or higher on the end-of-course examination.

(b) College or university courses taught at a high school or designated postsecondary site by a qualified teacher who is an employee of the school district and approved as an instructor by the collaborating college or university.

(c) College or university courses taught at a college, university or high school by an instructor employed by the college or university and approved by the collaborating school district.

(d) Online courses of any public university, community or junior college in Mississippi.

**(17) Qualifications of dual credit instructors.** A dual credit academic instructor must meet the requirements set forth by the regional accrediting association (Southern Association of College and Schools). University and community and junior college personnel have the sole authority in the selection of dual credit instructors.

A dual credit career and technical education instructor must meet the requirements set forth by the State Board for Community and Junior Colleges in the qualifications manual for postsecondary career and technical personnel.

**(18) Guidance on local agreements.** The Chief Academic Officer of the State Board of Trustees of State Institutions of Higher Learning and the Chief Instructional Officers of the State Board for Community and Junior Colleges and the State Department of Education, working collaboratively, shall develop a template to be used by the individual community and junior colleges and institutions of higher learning for consistent implementation of the dual enrollment program throughout the State of Mississippi.

**(19) Mississippi Works Dual Enrollment-Dual Credit Option.** A local school board and the State Board for Community Colleges shall establish a Mississippi Works Dual Enrollment-Dual Credit Option Program under which students at-risk or recent student dropouts may dually enroll in their home school and a local community college in a dual credit program consisting of high school completion coursework and a work skills certificate program. Students completing the dual enrollment-credit option may obtain their high school diploma while obtaining a certificate in a career-technical program or a community college Associate of Applied Science degree. The Mississippi Department of Employment Security shall assist students who have successfully completed the Mississippi Works Dual Enrollment-Dual Credit Option in securing a job upon the application of the student or the participating school or community college. The State Board of Education and the State Board for Community Colleges shall jointly designate five (5) pilot school districts in the state for participation in the Mississippi Works Dual Enrollment-Dual Credit Option Program effective in the 2012-2013 school year, and shall notify the appropriate local school board and community college board of trustees of this designation. The Mississippi Works Dual Enrollment-Dual Credit Option

Program will be implemented statewide in the 2013-2014 school year and thereafter. The State Board of Education and the State Board for Community Colleges shall establish criteria for the Dual Enrollment-Dual Credit Program, and students may be admitted to enroll in the appropriate community college courses if they meet the stated dual enrollment-credit admission requirements. Tuition and costs for community college courses offered under the Dual Enrollment-Dual Credit Program shall not be charged to the student, parents or legal guardians. When dually enrolled, the student shall be counted for adequate education program funding purposes, in the average daily attendance of the public school district in which the student attends high school, as provided in Section 37-151-7(1)(a). Any transportation required by the student to participate in the Dual Enrollment-Dual Credit Program is the responsibility of the parent or legal guardian of the student, and transportation costs may be paid from any available public or private sources, including the local school district. Grades and college credits earned by a student admitted to this Dual Enrollment-Dual Credit Program shall be recorded on the high school student record and on the college transcript at the community college and high school where the student attends classes. The transcript of the community college coursework may be released to another institution or applied toward college graduation requirements. Any course that is required for subject area testing as a requirement for graduation from a public school in Mississippi is eligible for dual credit, and courses eligible for dual credit shall also include career and technical courses. All courses eligible for dual credit shall be approved by the superintendent of the local school district and the chief instructional officer at the participating community college in order for college credit to be awarded. A community college shall make the final decision on what courses are eligible for semester hour credits and the local school superintendent shall make the final decision on the transfer of college courses credited to the student's high school transcript.

**SOURCES:** Laws, 2006, ch. 346, § 2; Laws, 2006, ch. 504, § 11; Laws, 2010, ch. 381, § 2; Laws, 2011, ch. 516, § 1; Laws, 2012, ch. 521, § 1, eff from and after July 1, 2012.

**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

**Amendment Notes** — The 2009 amendment reenacted this section without change.

The 2010 amendment substituted "shall establish a dual enrollment system" for "may establish a dual enrollment system" in (1); inserted "to the State Board of Education" in (3); rewrote (5), (7) and (17); in (11), substituted "All courses being considered" for "These courses and any additional courses considered," and added "in order for college credit to be awarded" at the end; inserted "periodically" in (13); inserted "eligible" in the first sentence of (14); inserted "and the State Department of Education" in (17); and made minor stylistic changes.

The 2011 amendment added (1) and redesignated the remaining subsections accordingly; substituted "Dual credit" for "Student" at the beginning of (3); inserted "dual

enrollment” preceding “admission requirements” at the end of (4); rewrote (9); substituted “dual credit program” for “dual enrollment program” in (10); rewrote (15) and (17); in (16), substituted “College or university” for “school-based” in (b) and substituted “university” for “university-based” in (c); and made minor stylistic changes throughout.

The 2012 amendment inserted “and Junior” in (2); substituted “All dual credit courses must meet” for “Postsecondary curricula for eligible courses currently offered through Mississippi Curriculum Frameworks must meet” in the second sentence of (10); deleted the former last sentence in (12), which read: “The local school superintendent shall make the final decision on the transfer of college or university courses credited to the student’s high school transcript”; in (13), substituted “one (1)” for “one-half (½)” and deleted the last sentence, which read: “A full Carnegie unit may be awarded for a three-hour university or college course upon approval of the local superintendent. Partial credit agreements for postsecondary courses that are less than three (3) hours may be developed between a local school district and the participating postsecondary institution”; in (14), deleted “Once alignment is achieved between university courses, community and junior college courses and the State Board of Education approved high school courses” from the beginning, and substituted “the State Department of Education” for “high schools”; rewrote (16)(d), which read: “Online courses, including eligible courses offered by the Mississippi Virtual Public School or any postsecondary institution”; and added (19).

**Cross References** — Career track programs for students not wishing to pursue baccalaureate degree, see § 37-16-17.

**§ 37-15-39. Legislative purpose; definitions; school districts to offer pre-advanced placement courses; funding to be provided for sophomores to take nationally recognized aptitude test for advanced placement classes; minimum number of advanced placement courses to be offered.**

(1) The purpose of this section is to ensure that each student has a sufficient education for success after high school and that all students have equal access to a substantive and rigorous curriculum that is designed to challenge their minds and enhance their knowledge skill.

(2) The following words and phrases have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) “Advanced placement course” means any high school level preparatory course for a college advanced placement test that incorporates all topics specified by recognized advanced placement authorities on standards for a given subject area and is approved by recognized advanced placement authorities.

(b) “Pre-advanced placement course” means a middle, junior high or high school level course that specifically prepares students to enroll and participate in an advanced placement course.

(c) “Vertical team” means a group of educators from different grade levels in a given discipline working cooperatively to develop and implement a vertically aligned program aimed at helping students from diverse backgrounds acquire the academic skills necessary for success in the advanced placement program and other challenging course work.

(d) “High concentration of low-income students” means, when used with respect to a public school or school district, a public school or school district



that serves a student population with fifty percent (50%) or more being low-income individuals ages five (5) through seventeen (17) years from a low-income family on the basis of: data on children eligible for the free or reduced price lunches under the National School Lunch Act; data on children in families receiving assistance under Part A of Title IV of the Social Security Act; data on children eligible to receive medical assistance under the Medicaid program under Title XIX of the Social Security Act; or an alternate method of identifying such children which combines or extrapolates that data.

(3) The State Board of Education shall establish clear, specific and challenging training guidelines that require teachers of advanced placement courses and teachers of pre-advanced placement courses to obtain a recognized advanced placement authority endorsed training. A teacher of an advanced placement or pre-advanced placement course, or both, must obtain the appropriate training.

(4)(a) In order to ensure that each student has a sufficient education for success after high school and that all students have equal access to a substantive and rigorous curriculum that is designed to challenge their minds and enhance their knowledge skill, school districts shall offer pre-advanced placement courses to prepare students for advanced placement course work.

(b) Subject to appropriation, funding shall be made available for the 2007-2008 school year so that all sophomores in Mississippi's public schools may take an examination that measures the students' ability to succeed in an advanced placement course. The State Department of Education shall seek federal funding through the Advanced Placement Incentive Grant Program and other available funding for this purpose. Funding efforts must be focused with an intent to carry out advanced placement and pre-advanced placement activities in school districts targeted as serving a high concentration of low-income students.

(c) The State Department of Education shall develop rules necessary for the implementation of advanced placement courses.

(5) Beginning with the 2007-2008 school year, all school districts must offer at least one (1) advanced placement course in each of the four (4) core areas of math, English, science and social studies, for a total offering of no less than four (4) advanced placement courses. The use of the state's online Advanced Placement Instructional Program is an appropriate alternative for the delivery of advanced placement courses.

Any public high school offering the International Baccalaureate Diploma Program is exempt from the requirements of this subsection. However, the school may participate in teacher training and program funding on the same basis as any high school offering advanced placement courses.

**SOURCES:** Laws, 2006, ch. 346, § 3; Laws, 2006, ch. 504, § 12; reenacted without change, Laws, 2009, ch. 345, § 21; Laws, 2011, ch. 516, § 2; Laws, 2012, ch. 437, § 1, eff from and after July 1, 2012.

**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

**Amendment Notes** — The 2009 amendment reenacted this section without change.

The 2011 amendment deleted former (2)(b) which read “ ‘Dual enrollment course’ means a postsecondary level course offered by a state institution of higher learning or community or junior colleges, which, upon successful completion, qualifies for academic credit in both the postsecondary institution and public high school.”

The 2012 amendment deleted the second sentence in (4)(c), which read; “The department shall develop rules necessary for the implementation of advanced placement courses.”

## CHAPTER 16

### Statewide Testing Program

SEC.

- 37-16-3. General powers and duties of department of education.
- 37-16-9. Modification of testing instruments and procedures for students with identified handicaps or disabilities.
- 37-16-11. Special diploma or certificate of completion for students with disabilities; occupational diploma for students with disabilities.
- 37-16-17. Career track programs for students not pursuing baccalaureate degree; curriculum; dual-enrollment and dual-credit options.

### § 37-16-3. General powers and duties of department of education.

(1) The State Department of Education is directed to implement a program of statewide assessment testing which shall provide for the improvement of the operation and management of the public schools. The statewide program shall be timed, as far as possible, so as not to conflict with ongoing district assessment programs. As part of the program, the department shall:

(a) Establish, with the approval of the State Board of Education, minimum performance standards related to the goals for education contained in the state's plan including, but not limited to, basic skills in reading, writing and mathematics. The minimum performance standards shall be approved by April 1 in each year they are established.

(b) Conduct a uniform statewide testing program in grades deemed appropriate. The program may test skill areas, basic skills and high school course content.

(c) Monitor the results of the assessment program and, at any time the composite student performance of a school or basic program is found to be below the established minimum standards, notify the district superintendent, the school principal and the school advisory committee or other existing parent group of the situation within thirty (30) days of its determination. The department shall further provide technical assistance to the district in the identification of the causes of this deficiency and shall recommend courses of action for its correction.

(d) Provide technical assistance to the school districts, when requested, in the development of student performance standards in addition to the established minimum statewide standards.

(e) Issue security procedure regulations providing for the security and integrity of the tests that are administered under the basic skills assessment program.

(2) Uniform basic skills tests shall be completed by each student in the appropriate grade. These tests shall be administered in such a manner as to preserve the integrity and validity of the assessment. In the event of excused or unexcused student absences, make-up tests shall be given. The school superintendent of every school district in the state shall annually certify to the State Department of Education that each student enrolled in the appropriate grade has completed the required basic skills assessment test for his or her grade in a valid test administration.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 30(2); Laws, 1987, ch. 446, § 1; Laws, 1988, ch. 372, § 1; Laws, 2010, ch. 482, § 1, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment, in (2), added the second sentence, and in the last sentence, added “in a valid test administration” at the end.

### **§ 37-16-9. Modification of testing instruments and procedures for students with identified handicaps or disabilities.**

(1) The state board shall, after a public hearing and consideration, make provision for appropriate accommodations for testing instruments and procedures for students with identified handicaps or disabilities in order to ensure that the results of the testing represent the student’s achievement, rather than reflecting the student’s impaired sensory, manual, speaking or psychological process skills, except when such skills are the factors the test purports to measure.

(2) The public hearing and consideration required hereunder shall not be construed to amend or nullify the requirements of security relating to the contents of examinations or assessment instruments and related materials or data.

(3) Children with disabilities shall be included in general statewide and district-wide assessments programs, with appropriate accommodations, where necessary. As appropriate, the State Department of Education and the local educational agency shall:

(a) Develop policies and procedures for the participation of children with disabilities in alternate assessments for those children who cannot participate in statewide and district-wide assessment programs; and

(b) Develop and, beginning not later than July 1, 2000, conduct those alternate assessments.

(4) The State Department of Education shall make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:



- (a) The number of children with disabilities participating in regular assessments;
- (b) The number of children participating in alternate assessments;
- (c) The performance of those children on regular assessments, beginning not later than July 1, 1998, and on alternate assessments, not later than July 1, 2000, if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children; and
- (d) Data relating to the performance of children with disabilities shall be disaggregated for assessments conducted after July 1, 1998.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 30(5, 7); Laws, 1999, ch. 582, § 11; Laws, 2010, ch. 382, § 1, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment substituted “appropriate accommodations for testing instruments” for “appropriate modification of testing instruments” in (1).

### **§ 37-16-11. Special diploma or certificate of completion for students with disabilities; occupational diploma for students with disabilities.**

(1) A student who has been properly classified, in accordance with rules established by the state board as “educable person with an intellectual disability,” “trainable person with an intellectual disability,” “deaf,” “specific learning disabled,” “physically handicapped whose ability to communicate orally or in writing is seriously impaired” or “emotionally handicapped” shall not be required to meet all requirements of Section 37-16-7, and shall, upon meeting all applicable requirements prescribed by the district school board, be awarded a special diploma in a form prescribed by the state board; however, such special graduation requirements prescribed by the district school board shall include minimum graduation requirements as prescribed by the state board. Any such student who meets all special requirements of the district school board for his exceptionality, but is unable to meet the appropriate special state minimum requirements, shall be awarded a special certificate of completion in a form prescribed by the state board. Nothing provided in this section, however, shall be construed to limit or restrict the right of an exceptional student solely to a special diploma. Any such student shall, upon proper request, be afforded the opportunity to fully meet all requirements of Section 37-16-7 through the standard procedures established therein and thereby qualify for a standard diploma upon graduation.

(2) The State Board of Education shall develop and issue criteria for a Mississippi Occupational Diploma for students having a disability as defined by the federal Individuals with Disabilities Education Act. Beginning with the 2002-2003 school year, any such student, upon proper request, shall be afforded the opportunity to fully meet such requirements and qualify for an occupational diploma upon graduation.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 30(8); Laws, 2001, ch. 605, § 1; Laws, 2010, ch. 476, § 10, eff from and after passage (approved Apr. 1, 2010.)

**Amendment Notes** — The 2010 amendment, in the first sentence in (1), substituted “educable person with an intellectual disability” for “educable mentally retarded” and “trainable person with an intellectual disability” for “trainable mentally retarded”; and made a minor stylistic change.

**§ 37-16-17. Career track programs for students not pursuing baccalaureate degree; curriculum; dual-enrollment and dual-credit options.**

(1) Purpose. (a) The purpose of this section is to create a quality option in Mississippi's high schools for students not wishing to pursue a baccalaureate degree, which shall consist of challenging academic courses and modern career-technical studies. The goal for students pursuing the career track is to graduate from high school with a standard diploma and credit toward a community college certification in a career-technical field. These students also shall be encouraged to take the national assessment in the career-technical field in which they become certified.

(b) The State Board of Education shall develop and adopt course and curriculum requirements for career track programs offered by local public school boards in accordance with this section. The State Board for Community and Junior Colleges and the State Board of Education jointly shall determine course and curriculum requirements for the career track program.

(2) Alternative career track; description; curriculum. (a) A career track shall provide a student with greater technical skill and a strong academic core and shall be offered to each high school student enrolled in a public school district. The career track program shall be linked to postsecondary options and shall prepare students to pursue either a degree or certification from a postsecondary institution, an industry-based training or certification, an apprenticeship, the military, or immediate entrance into a career field. The career track shall be designed primarily for those students who are not college bound and shall provide them with alternatives to entrance into a four-year university or college after high school graduation.

(b) Students pursuing a career track shall be afforded the opportunity to dually enroll in a community or technical college or to participate in a business internship or work-study program, when such opportunities are available and appropriate.

(c) Each public school district shall offer a career track program approved by the State Board of Education.

(d) Students in a career track program shall complete an academic core of courses and a career and technical sequence of courses.

(e) The twenty-one (21) course unit requirements for the career track shall consist of the following:

(i) At least four (4) English credits, including English I and English

II.

- (ii) At least three (3) mathematics credits, including Algebra I.
- (iii) At least three (3) science credits, including one (1) unit of biology.
- (iv) At least three (3) social studies credits, including one (1) unit of U.S. History and one (1) unit of Mississippi Studies/U.S. Government.
- (v) At least one-half ( $\frac{1}{2}$ ) credit in health or physical education.
- (vi) At least four (4) credits in career and technical education courses in the dual enrollment-dual credit programs authorized under Section 37-15-38.

(vii) At least one (1) credit in integrated technology with optional end of course testing.

(viii) At least two and one-half ( $2\frac{1}{2}$ ) credits in additional electives or career and technical education courses required by the local school board, as approved by the State Board of Education. Academic courses within the career track of the standard diploma shall provide the knowledge and skill necessary for proficiency on the state subject area tests.

(3) Nothing in this section shall disallow the development of a dual enrollment program with a technical college so long as an individual school district, with approval from the State Department of Education, agrees to implement such a program in connection with a technical college and the agreement is also approved by the proprietary school's commission.

**SOURCES:** Laws, 2010, ch. 381, § 1; Laws, 2011, ch. 517, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment substituted “twenty-one (21)” for “twenty (20)” in (2)(e); substituted “U.S.” for “American” twice in (2)(e)(iv); and substituted “two and one-half ( $2\frac{1}{2}$ )” for “one and one-half ( $1\frac{1}{2}$ )” in (2)(e)(viii).

## CHAPTER 17

### Accreditation of Schools

Sec.

- 37-17-6. Establishment and implementation of permanent performance-based accreditation system; particular accreditation requirements; accreditation audits and reviews; development program for schools failing to meet standards; establishment of a Mississippi Recovery School District; declaration of state of emergency in school district.
- 37-17-8. Comprehensive in-service staff development plans; exemption of certain school districts.
- 37-17-11. Exemption of school districts from compulsory standards of accreditation.
- 37-17-12. Exemption of administrators at certain schools from certain statutory requirements; exemption of certain school districts from certain statutory requirements and process standards; State Department of Education to provide report of exempted and nonexempted process standards.
- 37-17-13. Abolition of school districts declared to be in state of emergency; powers of board of education with regard to such school districts; reconstitution, etc., of districts.



**§ 37-17-6. Establishment and implementation of permanent performance-based accreditation system; particular accreditation requirements; accreditation audits and reviews; development program for schools failing to meet standards; establishment of a Mississippi Recovery School District; declaration of state of emergency in school district.**

[Effective until the date Laws of 2012, ch. 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]

(1) The State Board of Education, acting through the Commission on School Accreditation, shall establish and implement a permanent performance-based accreditation system, and all public elementary and secondary schools shall be accredited under this system.

(2) No later than June 30, 1995, the State Board of Education, acting through the Commission on School Accreditation, shall require school districts to provide school classroom space that is air-conditioned as a minimum requirement for accreditation.

(3)(a) Beginning with the 1994-1995 school year, the State Board of Education, acting through the Commission on School Accreditation, shall require that school districts employ certified school librarians according to the following formula:

| Number of Students<br>Per School Library | Number of Certified<br>School Librarians                  |
|------------------------------------------|-----------------------------------------------------------|
| 0 — 499 Students                         | $\frac{1}{2}$ Full-time Equivalent<br>Certified Librarian |
| 500 or More Students                     | 1 Full-time Certified<br>Librarian                        |

(b) The State Board of Education, however, may increase the number of positions beyond the above requirements.

(c) The assignment of certified school librarians to the particular schools shall be at the discretion of the local school district. No individual shall be employed as a certified school librarian without appropriate training and certification as a school librarian by the State Department of Education.

(d) School librarians in the district shall spend at least fifty percent (50%) of direct work time in a school library and shall devote no more than one-fourth ( $\frac{1}{4}$ ) of the workday to administrative activities that are library related.

(e) Nothing in this subsection shall prohibit any school district from employing more certified school librarians than are provided for in this section.

(f) Any additional millage levied to fund school librarians required for accreditation under this subsection shall be included in the tax increase limitation set forth in Sections 37-57-105 and 37-57-107 and shall not be deemed a new program for purposes of the limitation.

(4) On or before December 31, 2002, the State Board of Education shall implement the performance-based accreditation system for school districts and for individual schools which shall include the following:

(a) High expectations for students and high standards for all schools, with a focus on the basic curriculum;

(b) Strong accountability for results with appropriate local flexibility for local implementation;

(c) A process to implement accountability at both the school district level and the school level;

(d) Individual schools shall be held accountable for student growth and performance;

(e) Set annual performance standards for each of the schools of the state and measure the performance of each school against itself through the standard that has been set for it;

(f) A determination of which schools exceed their standards and a plan for providing recognition and rewards to those schools;

(g) A determination of which schools are failing to meet their standards and a determination of the appropriate role of the State Board of Education and the State Department of Education in providing assistance and initiating possible intervention. A failing district is a district that fails to meet both the absolute student achievement standards and the rate of annual growth expectation standards as set by the State Board of Education for two (2) consecutive years. The State Board of Education shall establish the level of benchmarks by which absolute student achievement and growth expectations shall be assessed. In setting the benchmarks for school districts, the State Board of Education may also take into account such factors as graduation rates, dropout rates, completion rates, the extent to which the school or district employs qualified teachers in every classroom, and any other factors deemed appropriate by the State Board of Education;

(h) Development of a comprehensive student assessment system to implement these requirements; and

(i) The State Board of Education may, based on a written request that contains specific reasons for requesting a waiver from the school districts affected by Hurricane Katrina of 2005, hold harmless school districts from assignment of district and school level accountability ratings for the 2005-2006 school year. The State Board of Education upon finding an extreme hardship in the school district may grant the request. It is the intent of the Legislature that all school districts maintain the highest possible academic standards and instructional programs in all schools as required by law and the State Board of Education.

The State Board of Education may continue to assign school district performance levels by using a number classification and may assign individual school performance levels by using a number classification to be consistent with school district performance levels.

(5) Nothing in this section shall be deemed to require a nonpublic school that receives no local, state or federal funds for support to become accredited by the State Board of Education.

(6) The State Board of Education shall create an accreditation audit unit under the Commission on School Accreditation to determine whether schools are complying with accreditation standards.

(7) The State Board of Education shall be specifically authorized and empowered to withhold adequate education program fund allocations, whichever is applicable, to any public school district for failure to timely report student, school personnel and fiscal data necessary to meet state and/or federal requirements.

(8) Deleted.

(9) The State Board of Education shall establish, for those school districts failing to meet accreditation standards, a program of development to be complied with in order to receive state funds, except as otherwise provided in subsection (14) of this section when the Governor has declared a state of emergency in a school district or as otherwise provided in Section 206, Mississippi Constitution of 1890. The state board, in establishing these standards, shall provide for notice to schools and sufficient time and aid to enable schools to attempt to meet these standards, unless procedures under subsection (14) of this section have been invoked.

(10) Beginning July 1, 1998, the State Board of Education shall be charged with the implementation of the program of development in each applicable school district as follows:

(a) Develop an impairment report for each district failing to meet accreditation standards in conjunction with school district officials;

(b) Notify any applicable school district failing to meet accreditation standards that it is on probation until corrective actions are taken or until the deficiencies have been removed. The local school district shall develop a corrective action plan to improve its deficiencies. For district academic deficiencies, the corrective action plan for each such school district shall be based upon a complete analysis of the following: student test data, student grades, student attendance reports, student dropout data, existence and other relevant data. The corrective action plan shall describe the specific measures to be taken by the particular school district and school to improve: (i) instruction; (ii) curriculum; (iii) professional development; (iv) personnel and classroom organization; (v) student incentives for performance; (vi) process deficiencies; and (vii) reporting to the local school board, parents and the community. The corrective action plan shall describe the specific individuals responsible for implementing each component of the recommendation and how each will be evaluated. All corrective action plans shall be provided to the State Board of Education as may be required. The decision of the State Board of Education establishing the probationary period of time shall be final;

(c) Offer, during the probationary period, technical assistance to the school district in making corrective actions. Beginning July 1, 1998, subject to the availability of funds, the State Department of Education shall provide technical and/or financial assistance to all such school districts in order to implement each measure identified in that district's corrective action plan



through professional development and on-site assistance. Each such school district shall apply for and utilize all available federal funding in order to support its corrective action plan in addition to state funds made available under this paragraph;

(d) Assign department personnel or contract, in its discretion, with the institutions of higher learning or other appropriate private entities with experience in the academic, finance and other operational functions of schools to assist school districts;

(e) Provide for publication of public notice at least one time during the probationary period, in a newspaper published within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The publication shall include the following: declaration of school system's status as being on probation; all details relating to the impairment report; and other information as the State Board of Education deems appropriate. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

(11)(a) If the recommendations for corrective action are not taken by the local school district or if the deficiencies are not removed by the end of the probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its accreditation should not be withdrawn. After its consideration of the results of the hearing, the Commission on School Accreditation shall be authorized, with the approval of the State Board of Education, to withdraw the accreditation of a public school district, and issue a request to the Governor that a state of emergency be declared in that district.

(b) If the State Board of Education and the Commission on School Accreditation determine that an extreme emergency situation exists in a school district that jeopardizes the safety, security or educational interests of the children enrolled in the schools in that district and that emergency situation is believed to be related to a serious violation or violations of accreditation standards or state or federal law, or when a school district meets the State Board of Education's definition of a failing school district for two (2) consecutive full school years, or if more than fifty percent (50%) of the schools within the school district are designated as Schools At-Risk in any one (1) year, the State Board of Education may request the Governor to declare a state of emergency in that school district. For purposes of this paragraph, the declarations of a state of emergency shall not be limited to those instances when a school district's impairments are related to a lack of financial resources, but also shall include serious failure to meet minimum academic standards, as evidenced by a continued pattern of poor student performance.

(c) Whenever the Governor declares a state of emergency in a school district in response to a request made under paragraph (a) or (b) of this subsection, the State Board of Education may take one or more of the following actions:

(i) Declare a state of emergency, under which some or all of state funds can be escrowed except as otherwise provided in Section 206, Constitution of 1890, until the board determines corrective actions are being taken or the deficiencies have been removed, or that the needs of students warrant the release of funds. The funds may be released from escrow for any program which the board determines to have been restored to standard even though the state of emergency may not as yet be terminated for the district as a whole;

(ii) Override any decision of the local school board or superintendent of education, or both, concerning the management and operation of the school district, or initiate and make decisions concerning the management and operation of the school district;

(iii) Assign an interim conservator, or in its discretion, contract with a private entity with experience in the academic, finance and other operational functions of schools and school districts, who will have those powers and duties prescribed in subsection (14) of this section;

(iv) Grant transfers to students who attend this school district so that they may attend other accredited schools or districts in a manner that is not in violation of state or federal law;

(v) For states of emergency declared under paragraph (a) only, if the accreditation deficiencies are related to the fact that the school district is too small, with too few resources, to meet the required standards and if another school district is willing to accept those students, abolish that district and assign that territory to another school district or districts. If the school district has proposed a voluntary consolidation with another school district or districts, then if the State Board of Education finds that it is in the best interest of the pupils of the district for the consolidation to proceed, the voluntary consolidation shall have priority over any such assignment of territory by the State Board of Education;

(vi) For states of emergency declared under paragraph (b) only, reduce local supplements paid to school district employees, including, but not limited to, instructional personnel, assistant teachers and extracurricular activities personnel, if the district's impairment is related to a lack of financial resources, but only to an extent that will result in the salaries being comparable to districts similarly situated, as determined by the State Board of Education;

(vii) For states of emergency declared under paragraph (b) only, the State Board of Education may take any action as prescribed in Section 37-17-13.

(d) At the time that satisfactory corrective action has been taken in a school district in which a state of emergency has been declared, the State Board of Education may request the Governor to declare that the state of emergency no longer exists in the district.

(e) There is established a Mississippi Recovery School District within the State Department of Education under the supervision of a deputy superintendent appointed by the State Superintendent of Public Education,

who is subject to the approval by the State Board of Education. The Mississippi Recovery School District shall provide leadership and oversight of all school districts that are subject to state conservatorship, as defined in Chapters 17 and 18, Title 37, Mississippi Code of 1972, and shall have all the authority granted under these two (2) chapters. The Mississippi Department of Education, with the approval of the State Board of Education, shall develop policies for the operation and management of the Mississippi Recovery School District. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall be authorized to oversee the administration of the Mississippi Recovery School District, oversee conservators assigned by the State Board of Education to a local school district, hear appeals from school districts under conservatorship that would normally be filed by students, parents or employees and heard by a local school board, which hearings on appeal shall be conducted in a prompt and timely manner in the school district from which the appeal originated in order to ensure the ability of appellants, other parties and witnesses to appeal without undue burden of travel costs or loss of time from work, and perform other related duties as assigned by the State Superintendent of Public Education. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall determine, based on rigorous professional qualifications set by the State Board of Education, the appropriate individuals to be engaged to be conservators and financial advisors, if applicable, of all school districts subject to state conservatorship. After State Board of Education approval, these individuals shall be deemed independent contractors.

(12) Upon the declaration of a state of emergency in a school district under subsection (11) of this section, the Commission on School Accreditation shall be responsible for public notice at least once a week for at least three (3) consecutive weeks in a newspaper published within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The size of the notice shall be no smaller than one-fourth ( $\frac{1}{4}$ ) of a standard newspaper page and shall be printed in bold print. If a conservator has been appointed for the school district, the notice shall begin as follows: "By authority of Section 37-17-6, Mississippi Code of 1972, as amended, adopted by the Mississippi Legislature during the 1991 Regular Session, this school district (name of school district) is hereby placed under the jurisdiction of the State Department of Education acting through its appointed conservator (name of conservator)."

The notice also shall include, in the discretion of the State Board of Education, any or all details relating to the school district's emergency status, including the declaration of a state of emergency in the school district and a description of the district's impairment deficiencies, conditions of any conservatorship and corrective actions recommended and being taken. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.



Upon termination of the state of emergency in a school district, the Commission on School Accreditation shall cause notice to be published in the school district in the same manner provided in this section, to include any or all details relating to the corrective action taken in the school district that resulted in the termination of the state of emergency.

(13) The State Board of Education or the Commission on School Accreditation shall have the authority to require school districts to produce the necessary reports, correspondence, financial statements, and any other documents and information necessary to fulfill the requirements of this section.

Nothing in this section shall be construed to grant any individual, corporation, board or conservator the authority to levy taxes except in accordance with presently existing statutory provisions.

(14)(a) Whenever the Governor declares a state of emergency in a school district in response to a request made under subsection (11) of this section, the State Board of Education, in its discretion, may assign an interim conservator to the school district, or in its discretion, may contract with an appropriate private entity with experience in the academic, finance and other operational functions of schools and school districts, who will be responsible for the administration, management and operation of the school district, including, but not limited to, the following activities:

(i) Approving or disapproving all financial obligations of the district, including, but not limited to, the employment, termination, nonrenewal and reassignment of all licensed and nonlicensed personnel, contractual agreements and purchase orders, and approving or disapproving all claim dockets and the issuance of checks; in approving or disapproving employment contracts of superintendents, assistant superintendents or principals, the interim conservator shall not be required to comply with the time limitations prescribed in Sections 37-9-15 and 37-9-105;

(ii) Supervising the day-to-day activities of the district's staff, including reassigning the duties and responsibilities of personnel in a manner which, in the determination of the conservator, will best suit the needs of the district;

(iii) Reviewing the district's total financial obligations and operations and making recommendations to the district for cost savings, including, but not limited to, reassigning the duties and responsibilities of staff;

(iv) Attending all meetings of the district's school board and administrative staff;

(v) Approving or disapproving all athletic, band and other extracurricular activities and any matters related to those activities;

(vi) Maintaining a detailed account of recommendations made to the district and actions taken in response to those recommendations;

(vii) Reporting periodically to the State Board of Education on the progress or lack of progress being made in the district to improve the district's impairments during the state of emergency; and

(viii) Appointing a parent advisory committee, comprised of parents of students in the school district that may make recommendations to the

conservator concerning the administration, management and operation of the school district.

Except when, in the determination of the State Board of Education, the school district's impairment is related to a lack of financial resources, the cost of the salary of the conservator and any other actual and necessary costs related to the conservatorship paid by the State Department of Education shall be reimbursed by the local school district from funds other than adequate education program funds. The department shall submit an itemized statement to the superintendent of the local school district for reimbursement purposes, and any unpaid balance may be withheld from the district's adequate education program funds.

At the time that the Governor, in accordance with the request of the State Board of Education, declares that the state of emergency no longer exists in a school district, the powers and responsibilities of the interim conservator assigned to the district shall cease.

(b) In order to provide loans to school districts under a state of emergency that have impairments related to a lack of financial resources, the School District Emergency Assistance Fund is created as a special fund in the State Treasury into which monies may be transferred or appropriated by the Legislature from any available public education funds.

The State Board of Education may loan monies from the School District Emergency Assistance Fund to a school district that is under a state of emergency in those amounts, as determined by the board, that are necessary to correct the district's impairments related to a lack of financial resources. The loans shall be evidenced by an agreement between the school district and the State Board of Education and shall be repayable in principal, without necessity of interest, to the State General Fund or the Education Enhancement Fund, depending on the source of funding for the loan, by the school district from any allowable funds that are available. The total amount loaned to the district shall be due and payable within five (5) years after the impairments related to a lack of financial resources are corrected. If a school district fails to make payments on the loan in accordance with the terms of the agreement between the district and the State Board of Education, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may withhold that district's adequate education program funds in an amount and manner that will effectuate repayment consistent with the terms of the agreement; the funds withheld by the department shall be deposited into the State General Fund or the Education Enhancement Fund, as the case may be.

The State Board of Education shall develop a protocol that will outline the performance standards and requisite time line deemed necessary for extreme emergency measures. If the State Board of Education determines that an extreme emergency exists, simultaneous with the powers exercised in this subsection, it shall take immediate action against all parties responsible for the affected school districts having been determined to be in an extreme emergency. The action shall include, but not be limited to,

initiating civil actions to recover funds and criminal actions to account for criminal activity. Any funds recovered by the State Auditor or the State Board of Education from the surety bonds of school officials or from any civil action brought under this subsection shall be applied toward the repayment of any loan made to a school district hereunder.

(15) If a majority of the membership of the school board of any school district resigns from office, the State Board of Education shall be authorized to assign an interim conservator, who shall be responsible for the administration, management and operation of the school district until the time as new board members are selected or the Governor declares a state of emergency in that school district under subsection (11), whichever occurs first. In that case, the State Board of Education, acting through the interim conservator, shall have all powers which were held by the previously existing school board, and may take any action as prescribed in Section 37-17-13 and/or one or more of the actions authorized in this section.

(16)(a) If the Governor declares a state of emergency in a school district, the State Board of Education may take all such action pertaining to that school district as is authorized under subsection (11) or (14) of Section 37-17-6, including the appointment of an interim conservator. The State Board of Education shall also have the authority to issue a written request with documentation to the Governor asking that the office of the superintendent of the school district be subject to recall. If the Governor declares that the office of the superintendent of the school district is subject to recall, the local school board or the county election commission, as the case may be, shall take the following action:

(i) If the office of superintendent is an elected office, in those years in which there is no general election, the name shall be submitted by the State Board of Education to the county election commission, and the county election commission shall submit the question at a special election to the voters eligible to vote for the office of superintendent within the county, and the special election shall be held within sixty (60) days from notification by the State Board of Education. The ballot shall read substantially as follows:

“Shall County Superintendent of Education \_\_\_\_\_ (here the name of the superintendent shall be inserted) of the \_\_\_\_\_ (here the title of the school district shall be inserted) be retained in office? Yes \_\_\_\_ No \_\_\_\_”

If a majority of those voting on the question votes against retaining the superintendent in office, a vacancy shall exist which shall be filled in the manner provided by law; otherwise, the superintendent shall remain in office for the term of that office, and at the expiration of the term shall be eligible for qualification and election to another term or terms.

(ii) If the office of superintendent is an appointive office, the name of the superintendent shall be submitted by the president of the local school board at the next regular meeting of the school board for retention in office or dismissal from office. If a majority of the school board voting on the



question vote against retaining the superintendent in office, a vacancy shall exist which shall be filled as provided by law, otherwise the superintendent shall remain in office for the duration of his employment contract.

(b) The State Board of Education may issue a written request with documentation to the Governor asking that the membership of the school board of the school district shall be subject to recall. Whenever the Governor declares that the membership of the school board is subject to recall, the county election commission or the local governing authorities, as the case may be, shall take the following action:

(i) If the members of the local school board are elected to office, in those years in which the specific member's office is not up for election, the name of the school board member shall be submitted by the State Board of Education to the county election commission, and the county election commission at a special election shall submit the question to the voters eligible to vote for the particular member's office within the county or school district, as the case may be, and the special election shall be held within sixty (60) days from notification by the State Board of Education. The ballot shall read substantially as follows:

"Members of the \_\_\_\_\_ (here the title of the school district shall be inserted) School Board who are not up for election this year are subject to recall because of the school district's failure to meet critical accountability standards as defined in the letter of notification to the Governor from the State Board of Education. Shall the member of the school board representing this area, \_\_\_\_\_ (here the name of the school board member holding the office shall be inserted), be retained in office? Yes \_\_\_\_\_ No \_\_\_\_\_"

If a majority of those voting on the question vote against retaining the member of the school board in office, a vacancy in that board member's office shall exist, which shall be filled in the manner provided by law; otherwise, the school board member shall remain in office for the term of that office, and at the expiration of the term of office, the member shall be eligible for qualification and election to another term or terms of office. However, if a majority of the school board members are recalled in the special election, the Governor shall authorize the board of supervisors of the county in which the school district is situated to appoint members to fill the offices of the members recalled. The board of supervisors shall make those appointments in the manner provided by law for filling vacancies on the school board, and the appointed members shall serve until the office is filled at the next regular special election or general election.

(ii) If the local school board is an appointed school board, the name of all school board members shall be submitted as a collective board by the president of the municipal or county governing authority, as the case may be, at the next regular meeting of the governing authority for retention in office or dismissal from office. If a majority of the governing authority

voting on the question vote against retaining the board in office, a vacancy shall exist in each school board member's office, which shall be filled as provided by law; otherwise, the members of the appointed school board shall remain in office for the duration of their term of appointment, and those members may be reappointed.

(iii) If the local school board is comprised of both elected and appointed members, the elected members shall be subject to recall in the manner provided in subparagraph (i) of this subsection, and the appointed members shall be subject to recall in the manner provided in subparagraph (ii).

(17) Beginning with the school district audits conducted for the 1997-1998 fiscal year, the State Board of Education, acting through the Commission on School Accreditation, shall require each school district to comply with standards established by the State Department of Audit for the verification of fixed assets and the auditing of fixed assets records as a minimum requirement for accreditation.

(18) Before December 1, 1999, the State Board of Education shall recommend a program to the Education Committees of the House of Representatives and the Senate for identifying and rewarding public schools that improve or are high performing. The program shall be described by the board in a written report, which shall include criteria and a process through which improving schools and high-performing schools will be identified and rewarded.

The State Superintendent of Public Education and the State Board of Education also shall develop a comprehensive accountability plan to ensure that local school boards, superintendents, principals and teachers are held accountable for student achievement. A written report on the accountability plan shall be submitted to the Education Committees of both houses of the Legislature before December 1, 1999, with any necessary legislative recommendations.

(19) Before January 1, 2008, the State Board of Education shall evaluate and submit a recommendation to the Education Committees of the House of Representatives and the Senate on inclusion of graduation rate and dropout rate in the school level accountability system.

(20) If a local school district is determined as failing and placed into conservatorship for reasons authorized by the provisions of this section, the conservator appointed to the district shall, within forty-five (45) days after being appointed, present a detailed and structured corrective action plan to move the local school district out of conservatorship status to the local school board and local superintendent of education if they have not been removed by the conservator, or if the board and superintendent have been removed, to the local governing authority of the municipality or county in which the school district under conservatorship is located. A copy of the conservator's corrective action plan shall also be filed with the State Board of Education.

**[Effective from and after the date Laws of 2012, ch. 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) The State Board of Education, acting through the Commission on School Accreditation, shall establish and implement a permanent performance-based accreditation system, and all public elementary and secondary schools shall be accredited under this system.

(2) No later than June 30, 1995, the State Board of Education, acting through the Commission on School Accreditation, shall require school districts to provide school classroom space that is air-conditioned as a minimum requirement for accreditation.

(3)(a) Beginning with the 1994-1995 school year, the State Board of Education, acting through the Commission on School Accreditation, shall require that school districts employ certified school librarians according to the following formula:

| Number of Students<br>Per School Library | Number of Certified<br>School Librarians      |
|------------------------------------------|-----------------------------------------------|
| 0 — 499 Students                         | ½ Full-time Equivalent<br>Certified Librarian |
| 500 or More Students                     | 1 Full-time Certified<br>Librarian            |

(b) The State Board of Education, however, may increase the number of positions beyond the above requirements.

(c) The assignment of certified school librarians to the particular schools shall be at the discretion of the local school district. No individual shall be employed as a certified school librarian without appropriate training and certification as a school librarian by the State Department of Education.

(d) School librarians in the district shall spend at least fifty percent (50%) of direct work time in a school library and shall devote no more than one-fourth (¼) of the workday to administrative activities that are library related.

(e) Nothing in this subsection shall prohibit any school district from employing more certified school librarians than are provided for in this section.

(f) Any additional millage levied to fund school librarians required for accreditation under this subsection shall be included in the tax increase limitation set forth in Sections 37-57-105 and 37-57-107 and shall not be deemed a new program for purposes of the limitation.

(4) On or before December 31, 2002, the State Board of Education shall implement the performance-based accreditation system for school districts and for individual schools which shall include the following:

- (a) High expectations for students and high standards for all schools, with a focus on the basic curriculum;
- (b) Strong accountability for results with appropriate local flexibility for local implementation;
- (c) A process to implement accountability at both the school district level and the school level;
- (d) Individual schools shall be held accountable for student growth and performance;



(e) Set annual performance standards for each of the schools of the state and measure the performance of each school against itself through the standard that has been set for it;

(f) A determination of which schools exceed their standards and a plan for providing recognition and rewards to those schools;

(g) A determination of which schools are failing to meet their standards and a determination of the appropriate role of the State Board of Education and the State Department of Education in providing assistance and initiating possible intervention. A failing district is a district that fails to meet both the absolute student achievement standards and the rate of annual growth expectation standards as set by the State Board of Education for two (2) consecutive years. The State Board of Education shall establish the level of benchmarks by which absolute student achievement and growth expectations shall be assessed. In setting the benchmarks for school districts, the State Board of Education may also take into account such factors as graduation rates, dropout rates, completion rates, the extent to which the school or district employs qualified teachers in every classroom, and any other factors deemed appropriate by the State Board of Education. The State Board of Education, acting through the State Department of Education, shall apply a simple "A," "B," "C," "D" and "F" designation to the current school and school district statewide accountability performance classification labels beginning with the State Accountability Results for the 2011-2012 school year and following, and in the school, district and state report cards required under state and federal law. Under the new designations, a school or school district that has earned a "Star" rating shall be designated an "A" school or school district; a school or school district that has earned a "High-Performing" rating shall be designated a "B" school or school district; a school or school district that has earned a "Successful" rating shall be designated a "C" school or school district; a school or school district that has earned an "Academic Watch" rating shall be designated a "D" school or school district; a school or school district that has earned a "Low-Performing," "At-Risk of Failing" or "Failing" rating shall be designated an "F" school or school district. Effective with the implementation of any new curriculum and assessment standards, the State Board of Education, acting through the State Department of Education, is further authorized and directed to change the school and school district accreditation rating system to a simple "A," "B," "C," "D," and "F" designation based on a combination of student achievement scores and student growth as measured by the statewide testing programs developed by the State Board of Education pursuant to Chapter 16, Title 37, Mississippi Code of 1972. In any statute or regulation containing the former accreditation designations, the new designations shall be applicable;

(h) Development of a comprehensive student assessment system to implement these requirements; and

(i) The State Board of Education may, based on a written request that contains specific reasons for requesting a waiver from the school districts

affected by Hurricane Katrina of 2005, hold harmless school districts from assignment of district and school level accountability ratings for the 2005-2006 school year. The State Board of Education upon finding an extreme hardship in the school district may grant the request. It is the intent of the Legislature that all school districts maintain the highest possible academic standards and instructional programs in all schools as required by law and the State Board of Education.

The State Board of Education may continue to assign school district performance levels by using a number classification and may assign individual school performance levels by using a number classification to be consistent with school district performance levels.

(5) Nothing in this section shall be deemed to require a nonpublic school that receives no local, state or federal funds for support to become accredited by the State Board of Education.

(6) The State Board of Education shall create an accreditation audit unit under the Commission on School Accreditation to determine whether schools are complying with accreditation standards.

(7) The State Board of Education shall be specifically authorized and empowered to withhold adequate education program fund allocations, whichever is applicable, to any public school district for failure to timely report student, school personnel and fiscal data necessary to meet state and/or federal requirements.

(8) Deleted.

(9) The State Board of Education shall establish, for those school districts failing to meet accreditation standards, a program of development to be complied with in order to receive state funds, except as otherwise provided in subsection (14) of this section when the Governor has declared a state of emergency in a school district or as otherwise provided in Section 206, Mississippi Constitution of 1890. The state board, in establishing these standards, shall provide for notice to schools and sufficient time and aid to enable schools to attempt to meet these standards, unless procedures under subsection (14) of this section have been invoked.

(10) Beginning July 1, 1998, the State Board of Education shall be charged with the implementation of the program of development in each applicable school district as follows:

(a) Develop an impairment report for each district failing to meet accreditation standards in conjunction with school district officials;

(b) Notify any applicable school district failing to meet accreditation standards that it is on probation until corrective actions are taken or until the deficiencies have been removed. The local school district shall develop a corrective action plan to improve its deficiencies. For district academic deficiencies, the corrective action plan for each such school district shall be based upon a complete analysis of the following: student test data, student grades, student attendance reports, student dropout data, existence and other relevant data. The corrective action plan shall describe the specific measures to be taken by the particular school district and school to improve:

(i) instruction; (ii) curriculum; (iii) professional development; (iv) personnel and classroom organization; (v) student incentives for performance; (vi) process deficiencies; and (vii) reporting to the local school board, parents and the community. The corrective action plan shall describe the specific individuals responsible for implementing each component of the recommendation and how each will be evaluated. All corrective action plans shall be provided to the State Board of Education as may be required. The decision of the State Board of Education establishing the probationary period of time shall be final;

(c) Offer, during the probationary period, technical assistance to the school district in making corrective actions. Beginning July 1, 1998, subject to the availability of funds, the State Department of Education shall provide technical and/or financial assistance to all such school districts in order to implement each measure identified in that district's corrective action plan through professional development and on-site assistance. Each such school district shall apply for and utilize all available federal funding in order to support its corrective action plan in addition to state funds made available under this paragraph;

(d) Assign department personnel or contract, in its discretion, with the institutions of higher learning or other appropriate private entities with experience in the academic, finance and other operational functions of schools to assist school districts;

(e) Provide for publication of public notice at least one time during the probationary period, in a newspaper published within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The publication shall include the following: declaration of school system's status as being on probation; all details relating to the impairment report; and other information as the State Board of Education deems appropriate. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

(11)(a) If the recommendations for corrective action are not taken by the local school district or if the deficiencies are not removed by the end of the probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its accreditation should not be withdrawn. Additionally, if the local school district violates accreditation standards that have been determined by the policies and procedures of the State Board of Education to be a basis for withdrawal of school district's accreditation without a probationary period, the Commission on School Accreditation shall conduct a hearing to allow the affected school district to present evidence or other reasons why its accreditation should not be withdrawn. After its consideration of the results of the hearing, the Commission on School Accreditation shall be authorized, with the approval of the State Board of Education, to withdraw the accreditation of a public school district, and issue a request to the Governor that a state of emergency be declared in that district.



(b) If the State Board of Education and the Commission on School Accreditation determine that an extreme emergency situation exists in a school district that jeopardizes the safety, security or educational interests of the children enrolled in the schools in that district and that emergency situation is believed to be related to a serious violation or violations of accreditation standards or state or federal law, or when a school district meets the State Board of Education's definition of a failing school district for two (2) consecutive full school years, or if more than fifty percent (50%) of the schools within the school district are designated as Schools At-Risk in any one (1) year, the State Board of Education may request the Governor to declare a state of emergency in that school district. For purposes of this paragraph, the declarations of a state of emergency shall not be limited to those instances when a school district's impairments are related to a lack of financial resources, but also shall include serious failure to meet minimum academic standards, as evidenced by a continued pattern of poor student performance.

(c) Whenever the Governor declares a state of emergency in a school district in response to a request made under paragraph (a) or (b) of this subsection, the State Board of Education may take one or more of the following actions:

(i) Declare a state of emergency, under which some or all of state funds can be escrowed except as otherwise provided in Section 206, Constitution of 1890, until the board determines corrective actions are being taken or the deficiencies have been removed, or that the needs of students warrant the release of funds. The funds may be released from escrow for any program which the board determines to have been restored to standard even though the state of emergency may not as yet be terminated for the district as a whole;

(ii) Override any decision of the local school board or superintendent of education, or both, concerning the management and operation of the school district, or initiate and make decisions concerning the management and operation of the school district;

(iii) Assign an interim conservator, or in its discretion, contract with a private entity with experience in the academic, finance and other operational functions of schools and school districts, who will have those powers and duties prescribed in subsection (14) of this section;

(iv) Grant transfers to students who attend this school district so that they may attend other accredited schools or districts in a manner that is not in violation of state or federal law;

(v) For states of emergency declared under paragraph (a) only, if the accreditation deficiencies are related to the fact that the school district is too small, with too few resources, to meet the required standards and if another school district is willing to accept those students, abolish that district and assign that territory to another school district or districts. If the school district has proposed a voluntary consolidation with another school district or districts, then if the State Board of Education finds that

it is in the best interest of the pupils of the district for the consolidation to proceed, the voluntary consolidation shall have priority over any such assignment of territory by the State Board of Education;

(vi) For states of emergency declared under paragraph (b) only, reduce local supplements paid to school district employees, including, but not limited to, instructional personnel, assistant teachers and extracurricular activities personnel, if the district's impairment is related to a lack of financial resources, but only to an extent that will result in the salaries being comparable to districts similarly situated, as determined by the State Board of Education;

(vii) For states of emergency declared under paragraph (b) only, the State Board of Education may take any action as prescribed in Section 37-17-13.

(d) At the time that satisfactory corrective action has been taken in a school district in which a state of emergency has been declared, the State Board of Education may request the Governor to declare that the state of emergency no longer exists in the district.

(e) The parent or legal guardian of a school-age child who is enrolled in a school district whose accreditation has been withdrawn by the Commission on School Accreditation and without approval of that school district may file a petition in writing to a school district accredited by the Commission on School Accreditation for a legal transfer. The school district accredited by the Commission on School Accreditation may grant the transfer according to the procedures of Section 37-15-31(1)(b). In the event the accreditation of the student's home district is restored after a transfer has been approved, the student may continue to attend the transferee school district. The per-pupil amount of the adequate education program allotment, including the collective "add-on program" costs for the student's home school district shall be transferred monthly to the school district accredited by the Commission on School Accreditation that has granted the transfer of the school-age child.

(f) Upon the declaration of a state of emergency for any school district in which the Governor has previously declared a state of emergency, the State Board of Education may either (i) establish a conservatorship or (ii) abolish the school district and administratively consolidate the school district with one or more existing school districts or (iii) reduce the size of the district and administratively consolidate parts of the district, as determined by the State Board of Education; provided, however, that no school district which is not under conservatorship shall be required to accept additional territory over the objection of the district.

(g) There is established a Mississippi Recovery School District within the State Department of Education under the supervision of a deputy superintendent appointed by the State Superintendent of Public Education, who is subject to the approval by the State Board of Education. The Mississippi Recovery School District shall provide leadership and oversight of all school districts that are subject to state conservatorship, as defined in Chapters 17 and 18, Title 37, Mississippi Code of 1972, and shall have all the

authority granted under these two (2) chapters. The Mississippi Department of Education, with the approval of the State Board of Education, shall develop policies for the operation and management of the Mississippi Recovery School District. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall be authorized to oversee the administration of the Mississippi Recovery School District, oversee conservators assigned by the State Board of Education to a local school district, hear appeals from school districts under conservatorship that would normally be filed by students, parents or employees and heard by a local school board, which hearings on appeal shall be conducted in a prompt and timely manner in the school district from which the appeal originated in order to ensure the ability of appellants, other parties and witnesses to appeal without undue burden of travel costs or loss of time from work, and perform other related duties as assigned by the State Superintendent of Public Education. The deputy state superintendent is responsible for the Mississippi Recovery School District and shall determine, based on rigorous professional qualifications set by the State Board of Education, the appropriate individuals to be engaged to be conservators and financial advisors, if applicable, of all school districts subject to state conservatorship. After State Board of Education approval, these individuals shall be deemed independent contractors.

(12) Upon the declaration of a state of emergency in a school district under subsection (11) of this section, the Commission on School Accreditation shall be responsible for public notice at least once a week for at least three (3) consecutive weeks in a newspaper published within the jurisdiction of the school district failing to meet accreditation standards, or if no newspaper is published therein, then in a newspaper having a general circulation therein. The size of the notice shall be no smaller than one-fourth ( $\frac{1}{4}$ ) of a standard newspaper page and shall be printed in bold print. If a conservator has been appointed for the school district, the notice shall begin as follows: "By authority of Section 37-17-6, Mississippi Code of 1972, as amended, adopted by the Mississippi Legislature during the 1991 Regular Session, this school district (name of school district) is hereby placed under the jurisdiction of the State Department of Education acting through its appointed conservator (name of conservator)."

The notice also shall include, in the discretion of the State Board of Education, any or all details relating to the school district's emergency status, including the declaration of a state of emergency in the school district and a description of the district's impairment deficiencies, conditions of any conservatorship and corrective actions recommended and being taken. Public notices issued under this section shall be subject to Section 13-3-31 and not contrary to other laws regarding newspaper publication.

Upon termination of the state of emergency in a school district, the Commission on School Accreditation shall cause notice to be published in the school district in the same manner provided in this section, to include any or all details relating to the corrective action taken in the school district that resulted in the termination of the state of emergency.



(13) The State Board of Education or the Commission on School Accreditation shall have the authority to require school districts to produce the necessary reports, correspondence, financial statements, and any other documents and information necessary to fulfill the requirements of this section.

Nothing in this section shall be construed to grant any individual, corporation, board or conservator the authority to levy taxes except in accordance with presently existing statutory provisions.

(14)(a) Whenever the Governor declares a state of emergency in a school district in response to a request made under subsection (11) of this section, the State Board of Education, in its discretion, may assign an interim conservator to the school district, or in its discretion, may contract with an appropriate private entity with experience in the academic, finance and other operational functions of schools and school districts, who will be responsible for the administration, management and operation of the school district, including, but not limited to, the following activities:

(i) Approving or disapproving all financial obligations of the district, including, but not limited to, the employment, termination, nonrenewal and reassignment of all licensed and nonlicensed personnel, contractual agreements and purchase orders, and approving or disapproving all claim dockets and the issuance of checks; in approving or disapproving employment contracts of superintendents, assistant superintendents or principals, the interim conservator shall not be required to comply with the time limitations prescribed in Sections 37-9-15 and 37-9-105;

(ii) Supervising the day-to-day activities of the district's staff, including reassigning the duties and responsibilities of personnel in a manner which, in the determination of the conservator, will best suit the needs of the district;

(iii) Reviewing the district's total financial obligations and operations and making recommendations to the district for cost savings, including, but not limited to, reassigning the duties and responsibilities of staff;

(iv) Attending all meetings of the district's school board and administrative staff;

(v) Approving or disapproving all athletic, band and other extracurricular activities and any matters related to those activities;

(vi) Maintaining a detailed account of recommendations made to the district and actions taken in response to those recommendations;

(vii) Reporting periodically to the State Board of Education on the progress or lack of progress being made in the district to improve the district's impairments during the state of emergency; and

(viii) Appointing a parent advisory committee, comprised of parents of students in the school district that may make recommendations to the conservator concerning the administration, management and operation of the school district.

Except when, in the determination of the State Board of Education, the school district's impairment is related to a lack of financial resources, the cost of the salary of the conservator and any other actual and necessary costs

related to the conservatorship paid by the State Department of Education shall be reimbursed by the local school district from funds other than adequate education program funds. The department shall submit an itemized statement to the superintendent of the local school district for reimbursement purposes, and any unpaid balance may be withheld from the district's adequate education program funds.

At the time that the Governor, in accordance with the request of the State Board of Education, declares that the state of emergency no longer exists in a school district, the powers and responsibilities of the interim conservator assigned to the district shall cease.

(b) In order to provide loans to school districts under a state of emergency or under conservatorship that have impairments related to a lack of financial resources, the School District Emergency Assistance Fund is created as a special fund in the State Treasury into which monies may be transferred or appropriated by the Legislature from any available public education funds. Funds in the School District Emergency Assistance Fund up to a maximum balance of Three Million Dollars (\$3,000,000.00) annually shall not lapse but shall be available for expenditure in subsequent years subject to approval of the State Board of Education. Any amount in the fund in excess of Three Million Dollars (\$3,000,000.00) at the end of the fiscal year shall lapse into the State General Fund or the Education Enhancement Fund, depending on the source of the fund.

The State Board of Education may loan monies from the School District Emergency Assistance Fund to a school district that is under a state of emergency or under conservatorship, in those amounts, as determined by the board, that are necessary to correct the district's impairments related to a lack of financial resources. The loans shall be evidenced by an agreement between the school district and the State Board of Education and shall be repayable in principal, without necessity of interest, to the School District Emergency Assistance Fund, by the school district from any allowable funds that are available. The total amount loaned to the district shall be due and payable within five (5) years after the impairments related to a lack of financial resources are corrected. If a school district fails to make payments on the loan in accordance with the terms of the agreement between the district and the State Board of Education, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may withhold that district's adequate education program funds in an amount and manner that will effectuate repayment consistent with the terms of the agreement; the funds withheld by the department shall be deposited into the School District Emergency Assistance Fund.

The State Board of Education shall develop a protocol that will outline the performance standards and requisite time line deemed necessary for extreme emergency measures. If the State Board of Education determines that an extreme emergency exists, simultaneous with the powers exercised in this subsection, it shall take immediate action against all parties responsible for the affected school districts having been determined to be in an extreme

emergency. The action shall include, but not be limited to, initiating civil actions to recover funds and criminal actions to account for criminal activity. Any funds recovered by the State Auditor or the State Board of Education from the surety bonds of school officials or from any civil action brought under this subsection shall be applied toward the repayment of any loan made to a school district hereunder.

(15) If a majority of the membership of the school board of any school district resigns from office, the State Board of Education shall be authorized to assign an interim conservator, who shall be responsible for the administration, management and operation of the school district until the time as new board members are selected or the Governor declares a state of emergency in that school district under subsection (11), whichever occurs first. In that case, the State Board of Education, acting through the interim conservator, shall have all powers which were held by the previously existing school board, and may take any action as prescribed in Section 37-17-13 and/or one or more of the actions authorized in this section.

(16)(a) If the Governor declares a state of emergency in a school district, the State Board of Education may take all such action pertaining to that school district as is authorized under subsection (11) or (14) of Section 37-17-6, including the appointment of an interim conservator. The State Board of Education shall also have the authority to issue a written request with documentation to the Governor asking that the office of the superintendent of the school district be subject to recall. If the Governor declares that the office of the superintendent of the school district is subject to recall, the local school board or the county election commission, as the case may be, shall take the following action:

(i) If the office of superintendent is an elected office, in those years in which there is no general election, the name shall be submitted by the State Board of Education to the county election commission, and the county election commission shall submit the question at a special election to the voters eligible to vote for the office of superintendent within the county, and the special election shall be held within sixty (60) days from notification by the State Board of Education. The ballot shall read substantially as follows:

“Shall County Superintendent of Education \_\_\_\_\_ (here the name of the superintendent shall be inserted) of the \_\_\_\_\_ (here the title of the school district shall be inserted) be retained in office? Yes \_\_\_\_\_ No \_\_\_\_\_”

If a majority of those voting on the question votes against retaining the superintendent in office, a vacancy shall exist which shall be filled in the manner provided by law; otherwise, the superintendent shall remain in office for the term of that office, and at the expiration of the term shall be eligible for qualification and election to another term or terms.

(ii) If the office of superintendent is an appointive office, the name of the superintendent shall be submitted by the president of the local school board at the next regular meeting of the school board for retention in office



or dismissal from office. If a majority of the school board voting on the question vote against retaining the superintendent in office, a vacancy shall exist which shall be filled as provided by law, otherwise the superintendent shall remain in office for the duration of his employment contract.

(b) The State Board of Education may issue a written request with documentation to the Governor asking that the membership of the school board of the school district shall be subject to recall. Whenever the Governor declares that the membership of the school board is subject to recall, the county election commission or the local governing authorities, as the case may be, shall take the following action:

(i) If the members of the local school board are elected to office, in those years in which the specific member's office is not up for election, the name of the school board member shall be submitted by the State Board of Education to the county election commission, and the county election commission at a special election shall submit the question to the voters eligible to vote for the particular member's office within the county or school district, as the case may be, and the special election shall be held within sixty (60) days from notification by the State Board of Education. The ballot shall read substantially as follows:

"Members of the \_\_\_\_\_ (here the title of the school district shall be inserted) School Board who are not up for election this year are subject to recall because of the school district's failure to meet critical accountability standards as defined in the letter of notification to the Governor from the State Board of Education. Shall the member of the school board representing this area, \_\_\_\_\_ (here the name of the school board member holding the office shall be inserted), be retained in office? Yes \_\_\_\_\_ No \_\_\_\_\_"

If a majority of those voting on the question vote against retaining the member of the school board in office, a vacancy in that board member's office shall exist, which shall be filled in the manner provided by law; otherwise, the school board member shall remain in office for the term of that office, and at the expiration of the term of office, the member shall be eligible for qualification and election to another term or terms of office. However, if a majority of the school board members are recalled in the special election, the Governor shall authorize the board of supervisors of the county in which the school district is situated to appoint members to fill the offices of the members recalled. The board of supervisors shall make those appointments in the manner provided by law for filling vacancies on the school board, and the appointed members shall serve until the office is filled at the next regular special election or general election.

(ii) If the local school board is an appointed school board, the name of all school board members shall be submitted as a collective board by the president of the municipal or county governing authority, as the case may be, at the next regular meeting of the governing authority for retention in office or dismissal from office. If a majority of the governing authority voting on the question vote against retaining the board in office, a vacancy

shall exist in each school board member's office, which shall be filled as provided by law; otherwise, the members of the appointed school board shall remain in office for the duration of their term of appointment, and those members may be reappointed.

(iii) If the local school board is comprised of both elected and appointed members, the elected members shall be subject to recall in the manner provided in subparagraph (i) of this subsection, and the appointed members shall be subject to recall in the manner provided in subparagraph (ii).

(17) Beginning with the school district audits conducted for the 1997-1998 fiscal year, the State Board of Education, acting through the Commission on School Accreditation, shall require each school district to comply with standards established by the State Department of Audit for the verification of fixed assets and the auditing of fixed assets records as a minimum requirement for accreditation.

(18) Before December 1, 1999, the State Board of Education shall recommend a program to the Education Committees of the House of Representatives and the Senate for identifying and rewarding public schools that improve or are high performing. The program shall be described by the board in a written report, which shall include criteria and a process through which improving schools and high-performing schools will be identified and rewarded.

The State Superintendent of Public Education and the State Board of Education also shall develop a comprehensive accountability plan to ensure that local school boards, superintendents, principals and teachers are held accountable for student achievement. A written report on the accountability plan shall be submitted to the Education Committees of both houses of the Legislature before December 1, 1999, with any necessary legislative recommendations.

(19) Before January 1, 2008, the State Board of Education shall evaluate and submit a recommendation to the Education Committees of the House of Representatives and the Senate on inclusion of graduation rate and dropout rate in the school level accountability system.

(20) If a local school district is determined as failing and placed into conservatorship for reasons authorized by the provisions of this section, the conservator appointed to the district shall, within forty-five (45) days after being appointed, present a detailed and structured corrective action plan to move the local school district out of conservatorship status to the local school board and local superintendent of education if they have not been removed by the conservator, or if the board and superintendent have been removed, to the local governing authority of the municipality or county in which the school district under conservatorship is located. A copy of the conservator's corrective action plan shall also be filed with the State Board of Education.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 12; Laws, 1985, ch. 398; Laws, 1991, ch. 471, § 1; Laws, 1994, ch. 581, § 7; Laws, 1996, ch. 302, § 1; Laws, 1997, ch. 386, § 3; Laws, 1997, ch. 336, § 1; Laws, 1998, ch. 497, § 3; Laws, 1999, ch. 421, § 3; Laws, 2000, ch. 533, § 6; Laws, 2000, ch. 610, §§ 6, 7; Laws, 2005, 5th

**Ex Sess, ch. 2, § 1; Laws, 2007, ch. 518, § 1; Laws, 2009, ch. 516, § 3; Laws, 2010, ch. 420, § 1; Laws, 2011, ch. 442, § 5; Laws, 2011, ch. 515, § 1; Laws, 2012, ch. 525, § 1; Laws, 2012, ch. 563, § 1, eff from and after July 1, 2012.**

**Joint Legislative Committee Note** — Section 5 of ch. 442, Laws of 2011, effective from and after July 1, 2011 (approved March 23, 2011), amended this section. Section 1 of ch. 515, Laws of 2011, effective July 2, 2011 (approved April 26, 2011), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 515, Laws of 2011, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 1 of ch. 525, Laws of 2012, effective from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, amended this section. As of August 27, 2012, Section 1 of ch. 525, Laws of 2012, has not been precleared. Section 1 of ch. 563, Laws of 2012, effective July 1, 2012, also amended this section. As set out above, both versions of this section reflect the language of Section 1 of ch. 563, Laws of 2012. However, if ch. 525, Laws of 2012, is precleared, it will control, and the section will read as set out in the second version.

**Editor's Note** — Laws of 2009, ch. 516 § 1 provides:

“SECTION 1. This act shall be entitled and may be cited as the “Children First Act of 2009.”

On July 23, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Laws of 2007, ch. 518, § 1.

Laws of 2010, ch. 321, § 3 provides:

“During fiscal year 2010, the State Fiscal Officer shall transfer to the School District Emergency Assistance Fund created in Section 37-17-6(14)(b) the sum of One Million Dollars (\$1,000,000.00) from the Mississippi Adequate Education Program budget of the State Department of Education (Fund No. 2230). The department is authorized to escalate the appropriate budget by the amount specified in this section and expend that sum for the purposes authorized by law, subject to the following provision:

“No funds provided in this section shall be expended by the State Department of Education for the support of a school district in which the Governor has declared a state of emergency until the State Board of Education has appointed and assigned an interim conservator to the school district. The department shall provide to the House and Senate Education Committees and the House and Senate Appropriations Committees a monthly report of all expenditures that it makes for the support of a school district from the funds provided in this section during the period that the school district is administered, managed and operated by an interim conservator.”

Laws of 2012, ch. 525, §§ 4 and 5 provide:

“SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2009 amendment added the last three sentences of (4)(g); in (9), added (a) and designated the former provisions of (9) as present (b); substituted the designators “(i)” through “(vii)” for “(a)” through “(g)”; in (11), inserted “or when a school...(2) consecutive full school years” in (b), and added (f); deleted the former last sentence of (14)(b), which provided the maximum amount that may be appropriated or transferred to the School District Emergency Assistance Fund for any one (1) emergency; added (20); and made minor stylistic changes.



The 2010 amendment substituted “certified school librarians” for “such school librarians” in (3)(c); and in (11)(f), in the first sentence, substituted “under the supervision of a Deputy Superintendent appointed by the State Superintendent of Public Education, who is subject to the approval by the State Board of Education” for “under the management and supervision of a Deputy Superintendent who is appointed by the State Superintendent of Public Education,” in the second sentence, deleted “management” following “leadership,” in the fourth sentence, substituted “oversee conservators” for “supervise conservators” and “ensure the ability of appellants” for “ensure that the capacity of appellants” and added the last two sentences; and made numerous minor stylistic changes.

The first 2011 amendment (ch. 442) substituted “millage” for “mileage” in (3)(f); deleted former (9)(a), which required that annual reports be published; deleted (11)(e), and redesignated former (11)(f) as (11)(e); and made minor stylistic changes.

The second 2011 amendment (ch. 515) substituted “millage” for “mileage” in (3)(f); deleted former (9)(a), which required that annual reports be published; inserted “or if more than fifty percent (50%) of the schools within the school district are designated as Schools At-Risk in any one (1) year” in the first sentence of (11)(b); deleted (11)(e) and redesignated former (11)(f) as (11)(e); and made minor stylistic changes.

The first 2012 amendment (ch. 525), added the last four sentences in (4)(g); inserted the second sentence in (11)(a); added (11)(e) and (11)(f) and redesignated former (11)(e) as (11)(g); and in (14)(b), in the first paragraph, inserted “or under conservatorship” in the first sentence and added the last two sentences, and in the second paragraph, inserted “or under conservatorship” in the first sentence, substituted “School District Emergency Assistance Fund” for “State General Fund or the Education Enhancement Fund, depending on the source of funding for the loan” in the second sentence, and substituted “School District Emergency Assistance Fund” for “State General Fund or the Education Enhancement Fund, as the case may be” at the end.

The second 2012 amendment (ch. 563), added the last four sentences in (4)(g).

**Cross References** — Task force to study and report on failing schools, see § 37-152-3.

## JUDICIAL DECISIONS

### 1. Conservator’s authority.

Interim school district conservator was acting within the scope of the conservator’s authority under Miss. Code Ann. § 37-17-6(14)(a) when the conservator declared the school board’s new transfer policy revoked existing transfers, thereby revoking a student’s inter-district trans-

fer; the board could withdraw its consent to the transfer at any time. *Fails v. Jefferson Davis County Pub. Sch. Bd.*, — So. 2d —, 2011 Miss. App. LEXIS 287 (Miss. Ct. App. May 24, 2011), vacated by, appeal dismissed by 2012 Miss. LEXIS 260 (Miss. May 31, 2012).

## § 37-17-8. Comprehensive in-service staff development plans; exemption of certain school districts.

(1) The State Board of Education, through the Commission on School Accreditation, shall establish criteria for comprehensive in-service staff development plans. These criteria shall: (a) include, but not be limited to, formula and guidelines for allocating available state funds for in-service training to local school districts; (b) require that a portion of the plans be devoted exclusively for the purpose of providing staff development training for beginning teachers within that local school district and for no other purpose; and (c) require that a portion of the school district’s in-service training for adminis-

trators and teachers be dedicated to the application and utilization of various disciplinary techniques. The board shall each year make recommendations to the Legislature concerning the amount of funds which shall be appropriated for this purpose.

(2) School districts shall not be required to submit staff development plans to the Commission on School Accreditation for approval. However, any school district accredited at the lowest performance levels, as defined by the State Board of Education, shall include, as a part of any required corrective action plan, provisions to address staff development in accordance with State Board of Education requirements. All school districts, unless specifically exempt from this section, must maintain on file staff development plans as required under this section. The plan shall have been prepared by a district committee appointed by the district superintendent and consisting of teachers, administrators, school board members, and lay people, and it shall have been approved by the district superintendent.

(3) In order to insure that teachers are not overburdened with paperwork and written reports, local school districts and the State Board of Education shall take such steps as may be necessary to further the reduction of paperwork requirements on teachers.

(4) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the mandatory provisions of this section relating to staff development plans.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 13; Laws, 1992, ch. 519, § 6; Laws, 1998, ch. 544, § 9; Laws, 2006, ch. 417, § 8; reenacted without change, Laws, 2009, ch. 345, § 22; reenacted and amended, Laws, 2009, ch. 445, § 6, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Section 6 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), reenacted and amended this section. Section 22 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 6 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The first 2009 amendment (ch. 345), reenacted this section without change.

The second 2009 amendment (ch. 445) reenacted and amended the section by substituting “the highest levels of” for “Level 4 or 5” in (4).

### **§ 37-17-11. Exemption of school districts from compulsory standards of accreditation.**

The State Board of Education, in its discretion, may exempt any school district meeting the highest levels of state accreditation standards, as defined by the State Board of Education, from any compulsory standard of accreditation. However, if the standard of accreditation is an educational policy required

by statute, any such exemption shall only be made if specifically authorized by law.

**SOURCES:** Laws, 1992, ch. 419, § 13; Laws, 1992, ch. 519, § 1; Laws, 2006, ch. 417, § 2; reenacted without change, Laws, 2009, ch. 345, § 23; reenacted and amended, Laws, 2009, ch. 445, § 7, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Section 7 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), reenacted and amended this section. Section 23 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 7 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The first 2009 amendment (ch. 345) reenacted this section without change.

The second 2009 amendment (ch. 445), reenacted and amended the section by substituting “the highest levels of” for “Level 4 or 5 state” in the introductory language.

**§ 37-17-12. Exemption of administrators at certain schools from certain statutory requirements; exemption of certain school districts from certain statutory requirements and process standards; State Department of Education to provide report of exempted and nonexempted process standards.**

(1)(a) Effective July 1, 2006, principals and administrators with career level certifications at schools with the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions pursuant to Section 37-3-4, subject to approval of the local superintendent.

(b) Effective July 1, 2006, school districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions pursuant to Sections 37-3-46, 37-3-49(2), 37-7-337, 37-17-8 and 37-21-7(4).

(c) The State Department of Education shall develop a policy to determine reevaluation of exemption status.

(2) The State Department of Education is directed to provide a report of all exempted process standards and nonexempted process standards to the Office of the Governor, the Chairs of the House and Senate Education Committees, and the Mississippi Association of School Superintendents by December 1, 2007.

**SOURCES:** Laws, 2006, ch. 417, § 3; reenacted without change, Laws, 2009, ch. 345, § 24; reenacted and amended, Laws, 2009, ch. 445, § 8, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Section 8 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), reenacted and amended this



section. Section 24 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 8 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The first 2009 amendment (ch. 345), reenacted this section without change.

The second 2009 amendment (ch. 445), reenacted and amended the section by substituting “the highest levels of” for “Level 4 or 5” in (1)(a) and (b), and inserting “as defined by the State Board of Education” in (1)(a).

**§ 37-17-13. Abolition of school districts declared to be in state of emergency; powers of board of education with regard to such school districts; reconstitution, etc., of districts.**

**[Effective until the date Laws of 2012, ch. 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(11)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint a conservator to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq., and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(14) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the

abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members and a superintendent or superintendents to govern the district or districts affected, in the manner provided by law.

**[Effective from and after the date Laws of 2012, ch. 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(11)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint a conservator to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq., and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(14) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its

action and request them to provide for the election or appointment of school board members in the manner provided by law. The State Board of Education shall also request the governing authority or authorities to provide for the appointment of a superintendent or superintendents to govern the reconstituted, reorganized or changed district or districts, which such appointed position shall apply in all school districts including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district to be abolished shall not be eligible to serve in that office for the school district reconstituted, reorganized or changed after the Governor declares that an emergency no longer exists.

**SOURCES:** Laws, 1996, ch. 302, § 2; Laws, 1999, ch. 421, § 4; Laws, 2007, ch. 518, § 2, eff. July 23, 2007, the dae United States Attorney General interposed no objection, under Section 5 of the Voting rights Act of 1965, to the amendment of this section); Laws, 2012, ch. 525, § 2, eff. \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — By letter dated July 23, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Laws of 2007, ch. 518.

Laws of 2012, ch. 525, §§ 4 and 5 provide:

“SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2012 amendment, in (3), deleted “and a superintendent or superintendents to govern the district or districts affected” following “board members” in the second sentence, and added the last two sentences.

## CHAPTER 18

### Superior-Performing, Exemplary and School At-Risk Schools Programs

- SEC.
- 37-18-1. Superior-Performing and Exemplary Schools Programs; designation as Superior-Performing, Exemplary, or School At-Risk School; growth expectations and proficiency measurements; monetary incentives; special recognition for schools receiving Superior-Performing or Exemplary School designation.
  - 37-18-3. School At-Risk designation for schools deficient in educating students; appropriation of adequate funds to provide assistance; evaluation team and report.
  - 37-18-5. School improvement plan; assistance team; community-based prekindergarten through higher education council.
  - 37-18-7. Professional development plan for educators identified as needing



improvement; declaration of state of emergency in school district under certain circumstances.

**§ 37-18-1. Superior-Performing and Exemplary Schools Programs; designation as Superior-Performing, Exemplary, or School At-Risk School; growth expectations and proficiency measurements; monetary incentives; special recognition for schools receiving Superior-Performing or Exemplary School designation.**

(1) The State Board of Education shall establish, design and implement a Superior-Performing Schools Program and an Exemplary Schools Program for identifying and rewarding public schools that improve. The State Board of Education shall develop rules and regulations for the program, establish criteria and establish a process through which Superior-Performing and Exemplary Schools will be identified and rewarded. Upon full implementation of the statewide testing program, Superior-Performing, Exemplary or School At-Risk designation shall be made by the State Board of Education in accordance with the following:

(a) A growth expectation will be established by testing students annually and, using a psychometrically approved formula, by tracking their progress. This growth expectation will result in a composite score each year for each school.

(b) A determination will be made as to the percentage of students proficient in each school. This measurement will define what a student must know in order to be deemed proficient at each grade level and will clearly show how well a student is performing. The definition of proficiency shall be developed for each grade, based on a demonstrated range of performance in relation to content as reflected in the Mississippi Curriculum Frameworks. This range of performance must be established through a formal procedure including educators, parents, community leaders and other stakeholders.

(c) A school has the following two (2) methods for designation as either a Superior-Performing or an Exemplary School, to be determined on an annual basis:

(i) A school exceeds its growth expectation by a percentage established by the State Board of Education; or

(ii) A school achieves the grade level proficiency standard established by the State Board of Education.

Any school designated as a School At-Risk which exceeds its growth expectation by a percentage established by the State Board of Education shall no longer be considered a School At-Risk and shall be eligible for monetary awards under this section.

(2) Superior-Performing and Exemplary Schools may apply to the State Board of Education for monetary incentives to be used for selected school needs, as identified by a vote of all licensed and instructional personnel employed at the school. These incentive funds may be used for specific school needs, including, but not limited to:

(a) Funding for professional development activities. Staff participating in such activities will report to the school and school district about the benefits and lessons learned from such training;

(b) Technology needs;

(c) Sabbaticals for teachers or administrators, or both, to pursue additional professional development or educational enrichment;

(d) Paid professional leave;

(e) Training for parents, including, but not limited to, the following:

(i) Curriculum;

(ii) Chapter 1;

(iii) Special need students;

(iv) Student rights and responsibility;

(v) School and community relations;

(vi) Effective parenting.

All funds awarded under this subsection shall be subject to specific appropriation therefor by the Legislature.

(3) The State Board of Education shall provide special recognition to all schools receiving Superior-Performing or Exemplary designation and their school districts. Examples of such recognition include, but are not limited to: public announcements and events; special recognition of student progress and effort; certificates of recognition and plaques for teachers, principals, superintendents, support and classified personnel and parents; and media announcements utilizing the services of Mississippi Educational Television.

**SOURCES:** Laws, 2000, ch. 533, § 1; Laws, 2000, ch. 610, §§ 1, 7; Laws, 2008, ch. 462, § 1, eff from and after July 1, 2008.

**Amendment Notes** — The 2008 amendment, in (1), inserted “School At-Risk” once in the last sentence of the introductory paragraph and twice in the last paragraph.

**§ 37-18-3. School At-Risk designation for schools deficient in educating students; appropriation of adequate funds to provide assistance; evaluation team and report.**

(1) Upon full implementation of the statewide testing programs developed by the State Board of Education pursuant to Chapter 16, Title 37, Mississippi Code of 1972, not later than December 31, 2002, the board shall establish for those individual schools failing to meet accreditation standards established under this chapter for Schools At-Risk, a program of development to be complied with in order to receive state funds. The Legislature shall, subject to the availability of funds, annually appropriate adequate funds to implement the provisions of this chapter. The State Board of Education may, in its discretion, assess local school districts for the costs of implementing the provisions of this chapter.

(2) Following a thorough analysis of school data each year, the State Department of Education shall identify those schools that are deficient in educating students and are in need of improvement. This analysis shall

measure the individual school performance by determining if a school met its assigned yearly growth expectation and by determining what percentage of the students in the school are proficient. A school shall be identified as a School At-Risk and in need of assistance if the school: (a) does not meet its growth expectation and has a percentage of students functioning below grade level, as designated by the State Board of Education; (b) is designated as a Level 1 school, or other future comparable performance designation by the State Board of Education; or (c) is designated as a Level 2 school, or other future comparable performance designation by the State Board of Education, for two (2) consecutive years.

(3) Within fifteen (15) days after a School At-Risk has been identified, written notice shall be sent by the State Board of Education by certified mail to both the school principal and the local board of education. Within fifteen (15) days after notification the State Board of Education shall assign an evaluation team to the school, subject to the availability of funding. The evaluation team shall be independent of the school being evaluated and may include employees of the State Department of Education. The team may include retired educators who have met certain standards and have completed all necessary training.

(4) An approved evaluation team shall have the following powers and duties:

(a) The evaluation team may request any financial documentation that it deems necessary, and the School At-Risk, with the assistance and cooperation of the school district central office, shall submit such requested financial information to the evaluation team.

(b) The evaluation team shall analyze the School At-Risk data to determine probable areas of weakness before conducting an on-site audit. The evaluation team shall proceed to conduct an on-site audit and shall prepare an evaluation report. If necessary, the evaluation team may request additional individuals in specialty areas to participate as team members in preparing the evaluation. After completing the evaluation of the School At-Risk, the team shall prepare and adopt its school evaluation report, which shall be submitted to the State Superintendent of Public Education for approval within ninety (90) calendar days. The school evaluation report shall identify any personnel who were found by the evaluation team to be in need of improvement and need to participate in a professional development plan. Evaluation instruments used to evaluate teachers, principals, superintendents or any other certified or classified personnel will be instruments which have been validated for such purposes.

(5) Following the approval of the evaluation report by the State Superintendent of Public Education, a representative of the State Superintendent of Public Education and the evaluation team leader shall present the evaluation report to the principal of the School At-Risk and to the superintendent and school board members of the local school district. Following this presentation, the evaluation report shall be presented to the community served by the School At-Risk at an advertised public meeting.



**SOURCES:** Laws, 2000, ch. 533, § 2; Laws, 2000, ch. 610, §§ 2, 7; Laws, 2008, ch. 462, § 2; Laws, 2010, ch. 488, § 2; Laws, 2011, ch. 515, § 2, eff from and after July 2, 2011.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error near the beginning of (4)(b). The word “School’s” was changed to “School” so that “shall analyze the School’s At-Risk data” reads “shall analyze the School At-Risk data.” The Joint Committee ratified the correction at its August 5, 2008, meeting.

**Amendment Notes** — The 2008 amendment, in (1), inserted “for Schools At-Risk” near the end of the first sentence, and added the last two sentences; rewrote the last sentence of (2); and substituted “School At-Risk” for “Priority School” in (3), (4) and (5).

The 2010 amendment rewrote (3); and made a minor stylistic change.

The 2011 amendment added “subject to the availability of funding” to the end of the second sentence of (3); substituted “ninety (90)” for “forty-five (45)” in the fourth sentence of (4)(b); and inserted “Public” preceding “Education and the evaluation team” in the first sentence of (5).

### **§ 37-18-5. School improvement plan; assistance team; community-based prekindergarten through higher education council.**

(1) Based on the findings of the evaluation report and the results of the public meeting, the State Department of Education and the evaluation team leader shall assist the school principal and other local school officials in the development of a school improvement plan to improve its deficiencies.

(2) The school improvement plan shall be developed and approved by the principal of the School At-Risk, the superintendent of the local school district, the local school board and a majority of the teachers of the school, within a time period to be determined by the evaluation team. If the plan is not approved, the State Board of Education may approve and implement the plan in the school.

(3) The State Department of Education shall provide technical assistance and shall assist in identifying funding to the School At-Risk in the implementation of the school improvement plan, including the implementation of any recommended professional development plan, and the department may contract with the institutions of higher learning to provide such technical assistance. The assistance team shall collaborate with school and school district employees in the implementation and monitoring of the school improvement plan and the State Department of Education shall ensure that a report is issued monthly to the local school board and the local community-based advisory council.

(4) A school district that has been designated as failing as defined by the State Board of Education or a district with a School At-Risk shall also establish a community-based prekindergarten through higher education council comprised of a broad spectrum of the community, including economic developers, elected officials, civic leaders, business leaders, faith-based leaders, social services, nonprofit organizations, school attendance officers, law enforcement officials, health department officials, day care providers, librarians, parents

and others with the knowledge and resources that can be leveraged to build strong communities. The State Board of Education shall develop procedures for appointments to the council, which shall not be appointed solely by the school board. The council will serve as a community-led group that is inclusive, accountable and required to publicly report progress to the community as a whole.

**SOURCES:** Laws, 2000, ch. 533, § 3; Laws, 2000, ch. 610, §§ 3, 7; Laws, 2008, ch. 462, § 3; Laws, 2009, ch. 516, § 9; Laws, 2011, ch. 515, § 3, eff from and after July 2, 2011.

**Editor's Note** — Laws of 2009, ch. 516 § 1 provides:

"SECTION 1. This act shall be entitled and may be cited as the "Children First Act of 2009."

**Amendment Notes** — The 2008 amendment substituted "School At-Risk" for "Priority School" in the first sentences of (2) and (3).

The 2009 amendment added (4).

The 2011 amendment rewrote (1); substituted "community-based advisory council" for "parents/citizens advisory council" in the last sentence of (3); and inserted "or a district with a School At-Risk" following "State Board of Education" in the first sentence of (4).

### **§ 37-18-7. Professional development plan for educators identified as needing improvement; declaration of state of emergency in school district under certain circumstances.**

(1) As part of the school improvement plan for a School At-Risk, a professional development plan shall be prepared for those school administrators, teachers or other employees who are identified by the evaluation team as needing improvement. The State Department of Education shall assist the School At-Risk in identifying funds necessary to fully implement the school improvement plan.

(2) In the event a school continues to be designated a School At-Risk after three (3) years of implementing a school improvement plan, or in the event that more than fifty percent (50%) of the schools within the school district are designated as Schools At-Risk in any one (1) year, the State Board of Education may request that the Governor declare a state of emergency in that school district. Upon the declaration of the state of emergency by the Governor, the State Board of Education may take all such action for dealing with school districts as is authorized under subsection (11) or (14) of Section 37-17-6, including the appointment of an interim conservator.

**SOURCES:** Laws, 2000, ch. 533, § 4; Laws, 2000, ch. 610, §§ 4, 7; Laws, 2007, ch. 518, § 3; Laws, 2008, ch. 462, § 4; Laws, 2011, ch. 442, § 15; Laws, 2011, ch. 515, § 4, eff from and after July 2, 2011.

**Joint Legislative Committee Note** — Section 15 of ch. 442, Laws of 2011, effective from and after July 1, 2011 (approved March 23, 2011), amended this section. Section 4 of ch. 515, Laws of 2011, effective July 2, 2011 (approved April 26, 2011), also amended this section. As set out above, this section reflects the language of Section 4 of ch. 515,

Laws of 2011, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The 2008 amendment substituted “School At-Risk” and “Schools At-Risk” for “Priority School” and “Priority Schools” throughout the section; and substituted “Chapter 421, Laws of 1999 and Chapter 610, Laws of 2000” for “Laws, 1999, Chapter 421, and Laws, 2000, Chapter 610” in (9)(f).

The first 2011 amendment (ch. 442) deleted former (7), pertaining to semiannual reports identifying Schools At-Risk; redesignated former (8) as (7); and deleted former (9), pertaining to the annual report to Legislative and public by the State Board of Education as to Schools At-Risk.

The second 2011 amendment (ch. 515), deleted former (2) through (5) pertaining to principals in need of improvement, teachers in need of professional development, school districts with central office problems, and declarations by governor that school board is subject to recall; redesignated former (6) as (2); and deleted former (7) through (9) pertaining to semiannual reports identifying Schools At-Risk, staff development training, and annual report to Legislature.

CHAPTER 19

Minimum Program of Education

SEC.  
37-19-7. Scale of teachers’ salaries; Teacher Opportunity Program (TOP); experience increases; salary supplement for certain school employees.

§ 37-19-7. Scale of teachers’ salaries; Teacher Opportunity Program (TOP); experience increases; salary supplement for certain school employees.

(1) This section shall be known and may be cited as the Mississippi “Teacher Opportunity Program (TOP).” The allowance in the Mississippi Adequate Education Program for teachers’ salaries in each county and separate school district shall be determined and paid in accordance with the scale for teachers’ salaries as provided in this subsection. For teachers holding the following types of licenses or the equivalent as determined by the State Board of Education, and the following number of years of teaching experience, the scale shall be as follows:

2007-2008 School Year and School Years Thereafter  
Less Than 25 Years of Teaching Experience

|            |              |
|------------|--------------|
| AAAA ..... | \$ 35,020.00 |
| AAA .....  | 33,990.00    |
| AA .....   | 32,960.00    |
| A .....    | 30,900.00    |

25 or More Years of Teaching Experience

|            |              |
|------------|--------------|
| AAAA ..... | \$ 37,080.00 |
| AAA .....  | 36,050.00    |
| AA .....   | 35,020.00    |



A .....32,960.00

The State Board of Education shall revise the salary scale prescribed above for the 2007-2008 school year to conform to any adjustments made to the salary scale in prior fiscal years due to revenue growth over and above five percent (5%). For each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds five percent (5%) for fiscal year 2006, as certified by the Legislative Budget Office to the State Board of Education and subject to specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale to provide an additional one percent (1%) across-the-board increase in the base salaries for each type of license.

It is the intent of the Legislature that any state funds made available for salaries of licensed personnel in excess of the funds paid for such salaries for the 1986-1987 school year shall be paid to licensed personnel pursuant to a personnel appraisal and compensation system implemented by the State Board of Education. The State Board of Education shall have the authority to adopt and amend rules and regulations as are necessary to establish, administer and maintain the system.

All teachers employed on a full-time basis shall be paid a minimum salary in accordance with the above scale. However, no school district shall receive any funds under this section for any school year during which the local supplement paid to any individual teacher shall have been reduced to a sum less than that paid to that individual teacher for performing the same duties from local supplement during the immediately preceding school year. The amount actually spent for the purposes of group health and/or life insurance shall be considered as a part of the aggregate amount of local supplement but shall not be considered a part of the amount of individual local supplement.

### **2008-2009 School Year Annual Increments**

For teachers holding a Class AAAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Ninety-four Dollars (\$794.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience, and shall be increased by Three Hundred Ninety-seven Dollars (\$397.00) for each year of teaching experience over twenty-five (25) years up to thirty-five (35) years.

For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Twenty-seven Dollars (\$727.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience, and shall be increased by Three Hundred Sixty-four Dollars (\$364.00) for each year of teaching experience over twenty-five (25) years up to thirty-five (35) years.

For teachers holding a Class AA license, the minimum base pay specified in this subsection shall be increased by the sum of Six Hundred Sixty Dollars (\$660.00) for each year of teaching experience possessed by the person holding

such license until such person shall have twenty-five (25) years of teaching experience, and shall be increased by Three Hundred Thirty Dollars (\$330.00) for each year of teaching experience over twenty-five (25) years up to thirty-five (35) years.

For teachers holding a Class A license, the minimum base pay specified in this subsection shall be increased by the sum of Four Hundred Ninety-five Dollars (\$495.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-four (24) years of teaching experience, and shall be increased by Two Hundred Forty-eight Dollars (\$248.00) for each year of teaching experience over twenty-four (24) years up to thirty-five (35) years.

### **2009-2010 School Year Annual Increments**

For teachers holding a Class AAAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Ninety-four Dollars (\$794.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Twenty-seven Dollars (\$727.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

For teachers holding a Class AA license, the minimum base pay specified in this subsection shall be increased by the sum of Six Hundred Sixty Dollars (\$660.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

For teachers holding a Class A license, the minimum base pay specified in this subsection shall be increased by the sum of Four Hundred Ninety-five Dollars (\$495.00) for each year of teaching experience possessed by the person holding such license until such person shall have thirty-five (35) years of teaching experience.

The level of professional training of each teacher to be used in establishing the salary allotment for the teachers for each year shall be determined by the type of valid teacher's license issued to those teachers on or before October 1 of the current school year. Provided, however, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided above in Section 37-19-7 shall not be applicable to any such retired certificated employee.

(2)(a) The following employees shall receive an annual salary supplement in the amount of Six Thousand Dollars (\$6,000.00), plus fringe benefits, in addition to any other compensation to which the employee may be entitled:

(i) Any licensed teacher who has met the requirements and acquired a Master Teacher certificate from the National Board for Professional

Teaching Standards and who is employed by a local school board or the State Board of Education as a teacher and not as an administrator. Such teacher shall submit documentation to the State Department of Education that the certificate was received prior to October 15 in order to be eligible for the full salary supplement in the current school year, or the teacher shall submit such documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year.

(ii) A licensed nurse who has met the requirements and acquired a certificate from the National Board for Certification of School Nurses, Inc., and who is employed by a local school board or the State Board of Education as a school nurse and not as an administrator. The licensed school nurse shall submit documentation to the State Department of Education that the certificate was received before October 15 in order to be eligible for the full salary supplement in the current school year, or the licensed school nurse shall submit the documentation to the State Department of Education before February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year. Provided, however, that the total number of licensed school nurses eligible for a salary supplement under this subparagraph (ii) shall not exceed thirty (30).

(iii) Any licensed school counselor who has met the requirements and acquired a National Certified School Counselor (NCSC) endorsement from the National Board of Certified Counselors and who is employed by a local school board or the State Board of Education as a counselor and not as an administrator. Such licensed school counselor shall submit documentation to the State Department of Education that the endorsement was received prior to October 15 in order to be eligible for the full salary supplement in the current school year, or the licensed school counselor shall submit such documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year. However, any school counselor who started the National Board for Professional Teaching Standards process for school counselors between June 1, 2003, and June 30, 2004, and completes the requirements and acquires the Master Teacher certificate shall be entitled to the master teacher supplement, and those counselors who complete the process shall be entitled to a one-time reimbursement for the actual cost of the process as outlined in paragraph (b) of this subsection.

(iv) Any licensed speech-language pathologist and audiologist who has met the requirements and acquired a Certificate of Clinical Competence from the American Speech-Language-Hearing Association and who is employed by a local school board or is employed by a state agency under the State Personnel Board. Such licensed speech-language pathologist and audiologist shall submit documentation to the State Department of Education that the certificate or endorsement was received prior to October 15 in order to be eligible for the full salary supplement in the



current school year, or the licensed speech-language pathologist and audiologist shall submit such documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year.

(b) An employee shall be reimbursed one (1) time for the actual cost of completing the process of acquiring the certificate or endorsement, excluding any costs incurred for postgraduate courses, not to exceed Five Hundred Dollars (\$500.00) for a school counselor or speech-language pathologist and audiologist, regardless of whether or not the process resulted in the award of the certificate or endorsement. A local school district or any private individual or entity may pay the cost of completing the process of acquiring the certificate or endorsement for any employee of the school district described under paragraph (a), and the State Department of Education shall reimburse the school district for such cost, regardless of whether or not the process resulted in the award of the certificate or endorsement. If a private individual or entity has paid the cost of completing the process of acquiring the certificate or endorsement for an employee, the local school district may agree to directly reimburse the individual or entity for such cost on behalf of the employee.

(c) All salary supplements, fringe benefits and process reimbursement authorized under this subsection shall be paid directly by the State Department of Education to the local school district and shall be in addition to its minimum education program allotments and not a part thereof in accordance with regulations promulgated by the State Board of Education, and subject to appropriation by the Legislature. Local school districts shall not reduce the local supplement paid to any employee receiving such salary supplement, and the employee shall receive any local supplement to which employees with similar training and experience otherwise are entitled.

(d) The State Department of Education may not pay any process reimbursement to a school district for an employee who does not complete the certification or endorsement process required to be eligible for the certificate or endorsement. If an employee for whom such cost has been paid, in full or in part, by a local school district or private individual or entity fails to complete the certification or endorsement process, the employee shall be liable to the school district or individual or entity for all amounts paid by the school district or individual or entity on behalf of that employee toward his or her certificate or endorsement.

(3)(a) Effective July 1, 2007, if funds are available for that purpose, the Legislature may authorize state funds for additional base compensation for teachers holding licenses in critical subject areas or the equivalent and who teach at least a majority of their courses in a critical subject area, as determined by the State Board of Education.

(b) Effective July 1, 2007, if funds are available for that purpose, the Legislature may authorize state funds for additional base compensation for teachers employed in a public school district located in a geographic area of the state designated as a critical teacher shortage area by the State Board of Education.

(4)(a) This section shall be known and may be cited as the “Mississippi Performance Based Pay (MPBP)” plan. In addition to the minimum base pay described in this section, only after full funding of MAEP and if funds are available for that purpose, the State of Mississippi may provide monies from state funds to school districts for the purposes of rewarding certified teachers, administrators and nonlicensed personnel at individual schools showing improvement in student test scores. The MPBP plan shall be developed by the State Department of Education based on the following criteria:

(i) It is the express intent of this legislation that the MPBP plan shall utilize only existing standards of accreditation and assessment as established by the State Board of Education.

(ii) To ensure that all of Mississippi’s teachers, administrators and nonlicensed personnel at all schools have equal access to the monies set aside in this section, the MPBP program shall be designed to calculate each school’s performance as determined by the school’s increase in scores from the prior school year. The MPBP program shall be based on a standardized scores rating where all levels of schools can be judged in a statistically fair and reasonable way upon implementation. At the end of each year, after all student achievement scores have been standardized, the State Department of Education shall implement the MPBP plan.

(iii) To ensure all teachers cooperate in the spirit of teamwork, individual schools shall submit a plan to the local school district to be approved before the beginning of each school year beginning July 1, 2008. The plan shall include, but not be limited to, how all teachers, regardless of subject area, and administrators will be responsible for improving student achievement for their individual school.

(b) The State Board of Education shall develop the processes and procedures for designating schools eligible to participate in the MPBP. State assessment results, growth in student achievement at individual schools and other measures deemed appropriate in designating successful student achievement shall be used in establishing MPBP criteria. The State Board of Education shall develop the MPBP policies and procedures and report to the Legislature and Governor by December 1, 2006.

(5)(a) Beginning in the 2008-2009 school year, if funds are available for that purpose, each school in Mississippi shall have mentor teachers, as defined by Sections 37-9-201 through 37-9-213, who shall receive additional base compensation provided for by the State Legislature in the amount of One Thousand Dollars (\$1,000.00) per each beginning teacher that is being mentored. The additional state compensation shall be limited to those mentor teachers that provide mentoring services to beginning teachers. For the purposes of such funding, a beginning teacher shall be defined as any teacher in any school in Mississippi that has less than one (1) year of classroom experience teaching in a public school. For the purposes of such funding, no full-time academic teacher shall mentor more than two (2) beginning teachers.

(b) To be eligible for this state funding, the individual school must have a classroom management program approved by the local school board.

**SOURCES:** Former 1972 Code § 37-19-7 [Codes, 1942, § 6248-02; Laws, 1953, Ex Sess ch. 14, § 2; Laws, 1954, ch. 269; Laws, 1955, Ex Sess ch. 55; Laws, 1958, ch. 306, § 2; Laws, 1960, ch. 295, § 2; Laws, 1962, 2d Ex Sess ch. 20; Laws, 1964, ch. 386; Laws, 1965, Ex Sess ch. 21; Laws, 1966, ch. 400, § 1; Laws, 1968, ch. 392, § 2; Laws, 1970, ch. 367, § 2; Laws, 1971, ch. 363, § 2; Laws, 1973, ch. 398, § 1; Laws, 1975, ch. 322, § 2] recodified as § 37-19-21 by Laws, 1977, ch. 486, § 11. Former 1972 Code § 37-19-5, subsections (2) and (5) [Codes, 1942, § 6248-02; Laws, 1953, Ex Sess ch. 14, § 2; Laws, 1954, ch. 269; Laws, 1955, Ex Sess ch. 55; Laws, 1958, ch. 306, § 2; Laws, 1960 ch. 295, § 2; Laws, 1962, 2d Ex Sess ch. 20, § 1; Laws, 1964, ch. 386; Laws, 1965, Ex Sess ch. 21; Laws, 1966, ch. 400, § 1; Laws, 1968, ch. 392, § 2; Laws, 1970, ch. 367, § 1; Laws, 1971, ch. 363, § 2] amended and codified as § 37-19-7 by 1977, ch. 486, § 4; Laws, 1978, ch. 513, § 4; Laws, 1979, ch. 484, § 1; Laws, 1980, ch. 509, § 1; Laws, 1981, ch. 517, § 1; Laws, 1982, Ex Sess, ch. 17, § 23; Laws, 1985, ch. 351, § 29; Laws, 1988, ch. 487, § 1; Laws, 1991, ch. 558 § 9; Laws, 1992, ch. 524, § 12; Laws, 1993, ch. 618, § 1; Laws, 1994, ch. 581, § 10; Laws, 1995, ch. 617, § 1; Laws, 1996, ch. 434, § 1; Laws, 1997, ch. 545, § 25; Laws, 1997, ch. 508, § 1; Laws, 1998, ch. 533, § 1; Laws, 1999, ch. 494, § 1; Laws, 1999, ch. 596, § 1; Laws, 2000, ch. 533, § 8; Laws 2001, 1st Ex Sess, ch. 1, § 2; Laws, 2004, ch. 546, § 1; Laws, 2006, ch. 504, § 2; Laws, 2007, ch. 523, § 1; Laws, 2008, ch. 556, § 1; reenacted without change, Laws, 2009, ch. 345, § 25; Laws, 2009, ch. 508, § 2; Laws, 2010, ch. 486, § 5; Laws, 2011, ch. 442, § 16, eff from and after July 1, 2011.

**Joint Legislative Committee Note** — Section 2 of ch. 508, Laws of 2009, effective from and after July 1, 2009 (approved April 7, 2009), amended this section. Section 25 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 2 of ch. 508, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Editor's Note** — Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

**Amendment Notes** — The 2008 amendment rewrote (1) to increase and authorize annual experience salary increments for teachers for up to 35 years of experience for all certificate levels; substituted "school district" for "school educational authority" in (4)(a)(iii); and rewrote (5) to commit state funding to mentor teachers who provide mentoring services to beginning teachers.

The first 2009 amendment (ch. 345) reenacted this section without change.

The second 2009 amendment (ch. 508), in (1), under the heading "2009-2010 School Year Annual Increments," added the last sentence of the next-to-last paragraph, and added the last paragraph.

The 2010 amendment provided for two versions of the fourth paragraph of (1); and substituted "under this subparagraph (ii)" for "under this paragraph (ii)" in (2)(a)(ii).

The 2011 amendment deleted the former last paragraph of (1) pertaining to an annual report to the State Department of Education on the number of certificated and noncertificated employees receiving a salary from the school district who are also receiving retirement benefits from the Public Employees' Retirement System; and deleted the former last sentence of (5)(a) which read: "The State Department of



Education shall annually provide to the Legislature, no later than January 2, the number of beginning teachers in each school in Mississippi as defined in this subsection.”

**Cross References** — Applicability of this section to certificated employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, see § 37-9-33.

## ATTORNEY GENERAL OPINIONS

Because a school district may not grant additional compensation or incentives to teachers that are not authorized by statute, a “sign-in bonus” may not be paid. Sanders, Aug. 8, 2005, A.G. Op. 05-0287.

## CHAPTER 21

### Early Childhood Education

|                                                                 |          |
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## EARLY CHILDHOOD EDUCATION PROGRAMS

|          |                                                           |
|----------|-----------------------------------------------------------|
| SEC.     |                                                           |
| 37-21-7. | Mississippi Elementary Schools Assistant Teacher Program. |

### § 37-21-7. Mississippi Elementary Schools Assistant Teacher Program.

(1) This section shall be referred to as the “Mississippi Elementary Schools Assistant Teacher Program,” the purpose of which shall be to provide an early childhood education program that assists in the instruction of basic skills. The State Board of Education is authorized, empowered and directed to implement a statewide system of assistant teachers in kindergarten classes and in the first, second and third grades. The assistant teacher shall assist pupils in actual instruction under the strict supervision of a licensed teacher.

(2)(a) Except as otherwise authorized under subsection (7), each school district shall employ the total number of assistant teachers funded under subsection (6) of this section. The superintendent of each district shall assign the assistant teachers to the kindergarten, first-, second- and third-grade classes in the district in a manner that will promote the maximum efficiency, as determined by the superintendent, in the instruction of skills such as verbal and linguistic skills, logical and mathematical skills, and social skills.

(b) If a licensed teacher to whom an assistant teacher has been assigned is required to be absent from the classroom, the assistant teacher may assume responsibility for the classroom in lieu of a substitute teacher. However, no assistant teacher shall assume sole responsibility of the classroom for more than three (3) consecutive school days. Further, in no event shall any assistant teacher be assigned to serve as a substitute teacher for any teacher other than the licensed teacher to whom that assistant teacher has been assigned.

(3) Assistant teachers shall have, at a minimum, a high school diploma or a GED equivalent, and shall show demonstratable proficiency in reading and writing skills. The State Department of Education shall develop a testing procedure for assistant teacher applicants to be used in all school districts in the state.

(4)(a) In order to receive funding, each school district shall:

(i) Submit a plan on the implementation of a reading improvement program to the State Department of Education; and

(ii) Develop a plan of educational accountability and assessment of performance, including pretests and posttests, for reading in Grades 1 through 6.

(b) Additionally, each school district shall:

(i) Provide annually a mandatory preservice orientation session, using an existing in-school service day, for administrators and teachers on the effective use of assistant teachers as part of a team in the classroom setting and on the role of assistant teachers, with emphasis on program goals;

(ii) Hold periodic workshops for administrators and teachers on the effective use and supervision of assistant teachers;

(iii) Provide training annually on specific instructional skills for assistant teachers;

(iv) Annually evaluate their program in accordance with their educational accountability and assessment of performance plan; and

(v) Designate the necessary personnel to supervise and report on their program.

(5) The State Department of Education shall:

(a) Develop and assist in the implementation of a statewide uniform training module, subject to the availability of funds specifically appropriated therefor by the Legislature, which shall be used in all school districts for training administrators, teachers and assistant teachers. The module shall provide for the consolidated training of each assistant teacher and teacher to whom the assistant teacher is assigned, working together as a team, and shall require further periodic training for administrators, teachers and assistant teachers regarding the role of assistant teachers;

(b) Annually evaluate the program on the district and state level. Subject to the availability of funds specifically appropriated therefor by the Legislature, the department shall develop: (i) uniform evaluation reports, to be performed by the principal or assistant principal, to collect data for the annual overall program evaluation conducted by the department; or (ii) a program evaluation model that, at a minimum, addresses process evaluation; and

(c) Promulgate rules, regulations and such other standards deemed necessary to effectuate the purposes of this section. Noncompliance with the provisions of this section and any rules, regulations or standards adopted by the department may result in a violation of compulsory accreditation standards as established by the State Board of Education and the Commission on School Accreditation.

(6) In addition to other funds allotted under the Minimum Education or Adequate Education Program, each school district shall be allotted sufficient funding for the purpose of employing assistant teachers. No assistant teacher shall be paid less than the amount he or she received in the prior school year. No school district shall receive any funds under this section for any school year during which the aggregate amount of the local contribution to the salaries of assistant teachers by the district shall have been reduced below such amount for the previous year.

For the 2007-2008 school year and school years thereafter, the minimum salary for assistant teachers shall be Twelve Thousand Five Hundred Dollars (\$12,500.00).

In addition, for each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds five percent (5%) in fiscal year 2006, as certified by the Legislative Budget Office to the State Board of Education and subject to the specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale in the appropriate year to provide an additional one percent (1%) across the board increase in the base salaries for assistant teachers. The State Board of Education shall revise the salaries prescribed above for assistant teachers to conform to any adjustments made in prior fiscal years due to revenue growth over and above five percent (5%). The assistant teachers shall not be restricted to working only in the grades for which the funds were allotted, but may be assigned to other classes as provided in subsection (2)(a) of this section.

(7)(a) As an alternative to employing assistant teachers, any school district may use the allotment provided under subsection (6) of this section for the purpose of employing licensed teachers for kindergarten, first-, second- and third-grade classes; however, no school district shall be authorized to use the allotment for assistant teachers for the purpose of employing licensed teachers unless the district has established that the employment of licensed teachers using such funds will reduce the teacher:student ratio in the kindergarten, first-, second- and third-grade classes. All state funds for assistant teachers shall be applied to reducing teacher:student ratio in Grades K-3.

It is the intent of the Legislature that no school district shall dismiss any assistant teacher for the purpose of using the assistant teacher allotment to employ licensed teachers. School districts may rely only upon normal attrition to reduce the number of assistant teachers employed in that district.

(b) Districts meeting the highest levels of accreditation standards, as defined by the State Board of Education, shall be exempted from the provisions of subsection (4) of this section.

**SOURCES:** Laws, 1982, Ex Sess, ch. 17, § 26; Laws, 1986, ch. 500, § 19; Laws, 1988, ch. 487, § 7; Laws, 1989, ch. 429, § 1; Laws, 1992, ch. 519, § 8; Laws, 1992, ch. 524, § 14; Laws, 1993, ch. 618, § 3; Laws, 1994, ch. 581, § 13; Laws, 1995, ch. 617, § 2; Laws, 1996, ch. 452, § 1; Laws, 1997, ch. 508, § 2; Laws, 1997, ch. 612, § 20; Laws, 1999, ch. 494, § 3; Laws, 2000, ch. 330, § 1; Laws,



2000, ch. 533, § 10; Laws, 2001, 1st Ex Sess, ch. 1, § 4; Laws, 2006, ch. 417, § 9; Laws, 2007, ch. 523, § 2; reenacted without change, Laws, 2009, ch. 345, § 26; reenacted and amended, Laws, 2009, ch. 445, § 9, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Section 9 of ch. 445, Laws of 2009, effective from and after July 1, 2009 (approved March 26, 2009), reenacted and amended this section. Section 26 of ch. 345, Laws of 2009, effective June 30, 2009 (approved March 16, 2009), reenacted this section without change. As set out above, this section reflects the language of Section 9 of ch. 445, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Editor's Note** — Laws of 2008, ch. 416, § 1:

"SECTION 1. The State Department of Education shall conduct a study to determine the need for and the potential benefits of establishing a career ladder opportunity program for assistant teachers employed in the public schools. The study must include suggestions on possible incentives and enhanced salary opportunities for: assistant teachers who continue their education toward the completion of a bachelor's degree that ultimately leads to the acquisition of a Standard License to teach in Mississippi; and assistant teachers who already possess a bachelor's degree and take steps that lead to the acquisition of a Standard License to teach. Before December 1, 2008, the department shall submit a report on the findings of this study, including recommendations on the implementation of such a program, to the Chairmen of the House and Senate Education and Appropriations Committees."

**Amendment Notes** — The first 2009 amendment (ch. 345), reenacted this section without change.

The second 2009 amendment (ch. 445) reenacted and amended the section by substituting "the highest levels of" for "Level 4 or 5" in (7)(b).

## EARLY CHILDHOOD SERVICES INTERAGENCY COORDINATING COUNCIL

SEC.

37-21-51. Legislative findings; Early Learning Collaborative Act of 2007; implementation of voluntary early care and education grant program; application for and use of funds; grant application oversight committee; application criteria; administration of program.

**§ 37-21-51. Legislative findings; Early Learning Collaborative Act of 2007; implementation of voluntary early care and education grant program; application for and use of funds; grant application oversight committee; application criteria; administration of program.**

(1) As used in Sections 37-21-51 through 37-21-55, the term "preschool or prekindergarten children" means any children who have not entered kindergarten.

(2) To ensure that all children have access to quality early childhood education and development services, the Legislature finds and declares the following:

(a) Parents have the primary duty to educate their young preschool children;

(b) The State of Mississippi can assist and educate parents in their role as the primary caregivers and educators of young preschool children; and

(c) There is a need to explore innovative approaches and strategies for aiding parents and families in the education and development of young preschool children.

(3)(a) This subsection shall be known and may be cited as the “Early Learning Collaborative Act of 2007.”

(b) The Mississippi Department of Human Services shall implement a voluntary early care and education grant program, which shall be a collaboration among the entities providing prekindergarten programs including Head Start, licensed child care facilities and licensed public, parochial and private school prekindergarten programs. Enrollment in the preschool or prekindergarten program shall be coordinated with the Head Start agencies in the local areas and shall not be permitted to cause a reduction in children served by the Head Start program. Under this program, eligible entities may submit an application for funds to (i) defray the cost of additional teaching staff, appropriate educational materials and equipment and to improve the quality of educational experiences offered to four-year-old children in existing licensed early care and education programs, and/or to (ii) extend developmentally appropriate education services at such existing licensed programs currently serving four-year-old children to include practices of high quality instruction, and to (iii) administer, implement, monitor and evaluate the programs. Grant funds shall be provided on a local entity matching fund basis to be determined by the Department of Human Services.

(c) The Department of Human Services shall contract with an appropriate early care and education program entity to serve as the fiscal agent for the program. All grant applicants shall be required to collaborate with other early care and education programs, provide a local community match to the grant award, designate one (1) entity as fiscal agent for the grant, and meet teacher qualifications.

(d) The early care and education program grants shall be awarded to successful applicants who meet the criteria developed by a committee appointed by the Governor, consisting of, but not limited to, representatives of the Mississippi Department of Human Services Office for Children and Youth, the Mississippi Head Start Association, the Mississippi Head Start Collaboration Office, the Mississippi Department of Education, the Mississippi State Department of Health Child Care Licensure Division and licensed child care facilities, one (1) of which must have a majority low-income population, in the state. The committee shall meet upon call of the Governor and shall organize for business by electing a chairman. Administrative and clerical support for the committee shall be provided by the Department of Human Services. The committee shall establish grant application criteria, procedures and deadlines. The criteria must include all

conditions prescribed in paragraph (c), and shall include, but not be limited to: voluntary enrollment of children, qualifications for teachers and assistant teachers, allowed expenses, children with special needs, use of a research-based curriculum aligned with the learning objectives/milestones in the Mississippi Early Learning Guidelines for Four-Year-Old Children, teacher/child ratios, child care facility licensure requirements, and collaboration with other early childhood programs.

(e) Any teacher, assistant teacher or other employee whose salary and fringe benefits are paid from early care and education grants under this act shall not be deemed to be classified as state or local school district employees and shall not be eligible for state health insurance benefits or membership in the Public Employees' Retirement System.

(f) Subject to the availability of funds appropriated therefor, the Department of Human Services shall administer the implementation, monitoring and evaluation of the early care and education grant program including the awards and the application process. The State Department of Education, Office of Reading, Early Childhood and Language Arts, in partnership with the Mississippi Department of Human Services, Office for Children and Youth, shall develop educational criteria regarding research-based curriculum, the state's early learning guidelines and developmentally appropriate educational services. Funding shall be provided subject to appropriation beginning with the 2008 fiscal year. The department shall make an annual report to the Legislature and the Governor regarding the effectiveness of the program.

**SOURCES:** Laws, 2000, ch. 510, § 1; Laws, 2007, ch. 440, § 1, eff from and after July 1, 2007; reenacted and amended, Laws, 2009, ch. 345, § 27, eff from and after June 30, 2009.

**Amendment Notes** — The 2009 amendment reenacted and amended the section by deleting former (3)(g), which provided that subsection (3) was to stand repealed on July 1, 2010.

**§ 37-21-53. Creation of Council; purpose; membership; duties; abolition.**

**Editor's Note** — Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

**CHAPTER 22**

**State Funds for School Districts**

|                                                             |          |
|-------------------------------------------------------------|----------|
| Mississippi School District Emergency Bridge Loan Act ..... | 37-22-25 |
|-------------------------------------------------------------|----------|

**MISSISSIPPI SCHOOL DISTRICT EMERGENCY BRIDGE LOAN ACT**

|           |                                                                  |
|-----------|------------------------------------------------------------------|
| SEC.      |                                                                  |
| 37-22-25. | Mississippi School District Emergency Bridge Loan program estab- |



lished; purpose; legislative intent; Mississippi School District Emergency Bridge Loan Fund created; repayment of loan; audit of receipts and expenditures of school districts in arrears; use of funds.

**§ 37-22-25. Mississippi School District Emergency Bridge Loan program established; purpose; legislative intent; Mississippi School District Emergency Bridge Loan Fund created; repayment of loan; audit of receipts and expenditures of school districts in arrears; use of funds.**

(1) This section shall be known and may be cited as the “Mississippi School District Emergency Bridge Loan Act.”

(2)(a) There is established a bridge loan program to be administered by the State Department of Education for the purpose of assisting local school districts that suffer revenue losses as a result of an economic downturn that substantially impacts the state and local revenues available to school districts. Loan proceeds distributed to school districts shall be specifically for school district operations identified as essential by the department.

(b) It is the intent of the Legislature that the department endeavor to ensure that the costs of the administration of this section are as low as possible.

(3)(a) There is created a special fund in the State Treasury to be designated as the “Mississippi School District Emergency Bridge Loan Fund,” referred to in this section as the “fund.” The fund shall consist of money designated for deposit in the fund from any source including, but not limited to, appropriations, bond proceeds, grants, gifts, donations or funds from any source, public or private. The fund shall be credited with all repayments of principal and interest derived from loans made from the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the State General Fund. Monies in the fund may not be used or expended for any purpose except as authorized under this section.

(b) The department shall establish a loan program by which loans may be made available to school districts to assist those school districts. Any school district that demonstrates for the current fiscal year a projected revenue loss equal to or exceeding one-third ( $\frac{1}{3}$ ) of its revenues in the preceding fiscal year may qualify for a loan. The interest rate on loans made under this section may vary from time to time and from loan to loan and shall be at or below market interest rates as determined by the department. The department shall act as quickly as is practicable and prudent in deciding on any loan request that it receives.

(c) The aggregate amount of any loans received under this section by a school district shall not exceed one hundred percent (100%) of the difference between the revenue received by the school district to fund essential operations in the preceding fiscal year and the estimated revenue from those

sources in the current fiscal year plus sixteenth section principal funds that may be expended under law, cash reserves or fund balances at the fiscal year end, as determined by the department. The State Board of Education shall set the maximum amount of any loan made under this section at an amount that will ensure the equitable distribution of the amounts available for loans to the eligible school districts.

(d) A school district that receives a loan from the fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77, as may be required by the department. Each recipient of a loan shall establish a dedicated source of revenue for repayment of the loan. Before any school district shall receive a loan, it must execute with the department a loan agreement evidencing the loan, a copy of which must be filed by the department with the State Tax Commission. The loan agreement may not be construed to prohibit any recipient from prepaying any part or all of the funds received. The repayment schedule in each loan agreement shall provide for: (i) monthly payments; (ii) semiannual payments; or (iii) other periodic payments. The loan agreement shall provide for the repayment of all funds received from the fund within not more than ten (10) years. At the request of the department, the State Tax Commission shall withhold semiannually from the amount to be remitted to a school district the sum necessary to pay all or a portion of the periodic payments for the loan.

(e) A school district that receives a loan from the state which is not eligible to pledge for repayment of the loan under paragraph (d) of this subsection shall repay the loan by making payments each month to the State Treasurer through the Department of Finance and Administration for and on behalf of the department according to Section 7-7-15, to be credited to the fund in lieu of pledging homestead exemption annual tax loss reimbursement.

Loan repayments shall be according to a repayment schedule contained in each loan agreement as required under paragraph (d) of this subsection.

(f) Evidences of indebtedness that are issued under this section may not be deemed indebtedness within the meaning specified in Section 37-59-5.

(g) The State Auditor, upon the request of the department, shall audit the receipts and expenditures of a school district if loan repayments appear to be in arrears. If the Auditor finds that the school district is in arrears in the repayments, the Auditor immediately shall notify the State Superintendent of Public Education, who may take any action necessary to enforce the terms of the loan agreement. The superintendent, in his discretion, may notify the State Tax Commission to withhold all future payments to the school district of homestead exemption annual tax loss reimbursements under Section 27-33-77 until such time that the school district is again current in its loan repayments, as certified by the department.

(h) All monies deposited in the fund may be used only for providing the loans authorized under this section. In addition, any amounts in the fund may be used to defray the reasonable costs of administering the fund. The

department is authorized to use amounts available to it from the fund to contract for those facilities and staff needed to administer and provide routine management for the funds and loan program.

(4) In administering this section, the State Department of Education shall have the following powers and duties:

- (a) To supervise the use of all funds made available under this section;
- (b) To promulgate rules and regulations and to establish procedures in accordance with this section for the implementation of the loan program;
- (c) To requisition monies in the fund and distribute those monies in accordance with this section;
- (d) To maintain, in accordance with generally accepted government accounting standards, an accurate record of all monies in the fund made available to school districts under this section; and
- (e) To file annually with the Legislature a report detailing how monies in the fund were spent during the preceding fiscal year in each school district.

(5) The State Bond Commission, at one time or from time to time, may declare the necessity for general funds for the purposes provided in this section, including the costs incident to the administration of the loan program. Upon approval by the State Bond Commission, the Department of Finance and Administration may transfer the necessary amount from the General Fund to the fund in ample time to discharge such loans and incidental costs.

(6) The Department of Finance and Administration, without further process of law, may certify the necessity for warrants and issue those warrants in such amounts as may be necessary to make loans under the program authorized by this section.

(7) After any state funds in the fund are no longer needed for the particular purpose for which they were appropriated, deposited or transferred into the fund, the Department of Finance and Administration shall transfer those state funds back to the particular fund or funds in the State Treasury from which they were appropriated or transferred into the fund, upon certification of the State Superintendent of Public Education that the state funds currently are not needed.

**SOURCES:** Laws, 2010, ch. 437, § 1, eff from and after passage (approved Mar. 25, 2010.)

**Editor’s Note** — Section 27-3-4 provides that the term “State Tax Commission” shall mean the Department of Revenue.

**CHAPTER 23**  
**Exceptional Children**

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IN GENERAL

|           |                                                                                                              |
|-----------|--------------------------------------------------------------------------------------------------------------|
| SEC.      |                                                                                                              |
| 37-23-1.  | Purpose of §§ 37-23-1 through 37-23-159; design of programs and services; accountability system.             |
| 37-23-3.  | "Exceptional child" defined; pilot project in provision of language services for children with disabilities. |
| 37-23-5.  | Administration of program of education for exceptional children.                                             |
| 37-23-11. | Repealed.                                                                                                    |
| 37-23-16. | Early literacy and numeracy screening assessment instruments; selection; use; funding.                       |

§ 37-23-1. Purpose of §§ 37-23-1 through 37-23-159; design of programs and services; accountability system.

The purpose of Sections 37-23-1 through 37-23-159 is to mandate free appropriate public educational services and equipment for exceptional children in the age range three (3) through twenty (20) for whom the regular school programs are not adequate and to provide, on a permissive basis, a free appropriate public education, as a part of the state's early intervention system in accordance with regulations developed in collaboration with the agency designated as "lead agency" under Part C of the Individuals with Disabilities Education Act. The portion of the regulations developed in collaboration with the lead agency which are necessary to implement the programs under the authority of the State Board of Education shall be presented to the State Board of Education for adoption. This specifically includes, but shall not be limited to, provision for day schools for the deaf and blind of an age under six (6) years, where early training is in accordance with the most advanced and best approved scientific methods of instruction, always taking into consideration the best interests of the child and his improvement at a time during which he is most susceptible of improvement. Educational programs to exceptional children under the age of three (3) years shall be eligible for adequate education program funds.

All references in the laws of this state to the "Individuals with Disabilities Education Act" or to the "IDEA" shall be construed to include any subsequent amendments to that act.

The educational programs and services provided for exceptional children in Sections 37-23-1 through 37-23-15, 37-23-31 through 37-23-35, 37-23-61 through 37-23-75 and 37-23-77 shall be designed to provide individualized appropriate special education and related services that enable a child to reach his or her appropriate and uniquely designed goals for success. The State Board of Education shall establish an accountability system for special education programs and students with disabilities. The system shall establish accountability standards for services provided to improve the educational

skills designed to prepare children for life after their years in school. These standards shall be a part of the accreditation system and shall be implemented before July 1, 1996.

The State Department of Education shall establish goals for the performance of children with disabilities that will promote the purpose of IDEA and are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State Department of Education. Performance indicators used to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates shall be developed. Every two (2) years, the progress toward meeting the established performance goals shall be reported to the public.

**SOURCES:** Codes, 1942, §§ 6631-01, 6631-02; Laws, 1952, ch. 283, §§ 1, 2; Laws, 1956, ch. 282; Laws, 1978, ch. 461, § 1; Laws, 1991, ch. 415, § 1; Laws, 1993, ch. 602, § 5; Laws, 1994, ch. 477, § 1; Laws, 1995, ch. 572, § 1; Laws, 1999, ch. 582, § 12; Laws, 2009, ch. 368, § 1, eff from and after July 1, 2009.

**Editor's Note** — Laws of 2009, ch. 507, § 3, provides:

“SECTION 3. The House and Senate Education Chairmen shall appoint three (3) members of their respective committees to form a joint subcommittee to study the following:

“(a) The effectiveness of Oral/Auditory programs in teaching spoken language to the deaf so that they may compete and succeed with their hearing peers. The joint subcommittee may hear testimony from experts as well as compile data, study and report on the following:

“(i) Review the funding structure by which the state currently operates in funding deaf education;

“(ii) Conduct a study of the possibility of success in teaching spoken language before kindergarten if early intervention is properly funded;

“(iii) Determine all deaf education program requirements relating to facilities, nutrition services and transportation;

“(iv) Prepare a compilation and review of all deaf education services currently provided in Mississippi;

“(v) Study any other issues relating to deaf education programs determined to be relevant by the task force;

“(vi) Tour each deaf education program offered in the state; and

“(vii) Make appropriate findings and recommendations addressing the matters enumerated in this paragraph, including any legislative action that is considered necessary by the joint subcommittee.

“(b) In addition, the joint subcommittee may hear testimony from experts as well as compile data, study and report on the following matters: resources and programs that currently support students that have been diagnosed with Autism Spectrum Disorder, the feasibility of implementing Autism Spectrum Disorder classrooms in public school districts throughout the state, and the feasibility of implementing transition services to teenagers and adults that have been diagnosed with Autism Spectrum Disorder.

“(c) This section shall stand repealed on July 1, 2012.”

Laws of 2011, ch. 512, § 1, provides:

“SECTION 1. (1) There is created the Joint Legislative and Paraprofessional Education and Mental Health Study Committee to study and make annual recommendations to the Mississippi Legislature and to assist in shaping public policy to improve student outcomes and educational opportunities for students with serious emotional,

behavioral disorders in regular and special education in the State of Mississippi. The study group shall be composed of the following members:

“(a) One (1) person who is a member of the governing body of a school district, to be appointed by the State Superintendent of Public Education;

“(b) One (1) person who is a representative of the State Department of Education, to be appointed by the State Superintendent of Public Education (no designee);

“(c) One (1) person who is the Director of Special Education services in a school district, to be appointed

“(d) One (1) person who is a representative of the State Department of Mental Health, to be appointed by the executive director of the department;

“(e) One (1) regular education teacher to be appointed by the State Superintendent of Public Education;

“(f) One (1) special education teacher to be appointed by the State Superintendent of Public Education;

“(g) The Executive Director of Mississippi Families as Allies for Children’s Mental Health;

“(h) One (1) person each who is a representative of Parent and Training Institute, Mississippi Disability Rights, Southern Echo, Mississippi Center for Justice and National Alliance on Mental Illness (NAMI), to be appointed by the executive directors of each respective organization;

“(i) One (1) person who is a representative of the Department of Rehabilitation Services appointed by the

“(j) One (1) person who is a representative of the Department of Human Services appointed by the executive director of the department;

“(k) One (1) person who is a representative of a local school district Positive Behavioral Intervention Support (PBIS) model to be appointed by the State Superintendent of Public Education;

“(l) One (1) person who is an employee-representative of the Mississippi Association of Community Mental Health Centers to be appointed by the Governor;

“(m) One (1) person who is a nonemployee representative of the Mississippi Association of Community Mental Health Centers to be appointed by the Governor;

“(n) The Chairman of the House Public Health and Human Services Committee and the Chairman of the Senate Public Health and Welfare Committee, who will be cochairmen of the joint study committee; and

“(o) The Chairmen of the House and Senate Education Committees, who will be cochairmen of the joint study committee.

“(2) Members of the study group shall work together to insure that family members are representative of the regions of the state and the various types of relevant issues in both special education and regular education specific issues.

“(3) The study committee is tasked with the following responsibilities:

“(a) Collecting and analyzing data on out-of-school suspensions;

“(b) Collecting and analyzing data on alternative school placement;

“(c) Collecting and analyzing data on the use of corporal punishment;

“(d) Reviewing the use of Medicaid payments for mental health services in schools;

“(e) Establishing a clear defined process for requesting mental health services;

“(f) Reviewing mental health training provided for school personnel, beyond classroom management, interventions and preventions;

“(g) Promoting professional development training on disabilities and specific disorders; and

“(h) Evaluating why dropout rates for children and youth with mental health issues are higher than the average rate.

“(4) Appointments to the task force shall be made within thirty (30) days after the effective date of this act. The task force shall hold its first meeting not later than August 15, 2011, with the date, time and location of the meeting to be designated by the Executive Director of the Department of Mental Health.



“(5) Members of the task force shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the task force from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house. The task force, by approval of a majority of its membership, may accept funds that may be donated or provided in the form of grants from public or private sources.

“(6) Any department, agency or court of this state, at the request of the chairman of the task force, shall provide staff and other support necessary for the task force to perform its duties.

“(7) The study committee shall report to the Governor and the Legislature by not later than January 1, 2013, at which time the study committee shall be dissolved.”

**Amendment Notes** — The 2009 amendment, in the last sentence of the first paragraph, substituted “adequate education program funds” for “minimum education program funds” and deleted “as defined in Sections 37-23-3 and 37-19-5” from the end; and added the second paragraph.

### **§ 37-23-3. “Exceptional child” defined; pilot project in provision of language services for children with disabilities.**

(1) An exceptional child shall be defined as any child as herein defined, in the age range birth through twenty (20) years of age with an intellectual disability, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities and, by reason thereof, needs special education and related services. Such children shall be determined by competent professional persons in such disciplines as medicine, psychology, special education, speech pathology and social work and shall be considered exceptional children for the purposes of Sections 37-23-1 through 37-23-159. Such professional persons shall be approved by the State Department of Education. The mandate for the provision of educational programs to exceptional children shall only apply to the children in the age range three (3) through twenty (20). Children who are potentially in need of special educational and related services must be considered for the services on an individual basis.

(2) During the fiscal year 1995 and fiscal year 1996, the State Department of Education shall conduct a pilot project in one or more school districts which shall test the method of providing language services described in this subsection. For purposes of this pilot project, a child with a disability as defined in the Individuals with Disabilities Education Act (IDEA) may not be denied language services because his measured cognitive functioning is equivalent to or lower than his measured functioning level in the language area. In order for language services to be provided for a child, the measured functioning level of the child in the language area must indicate a delay relative to the child’s chronological age. Individual determination of a child’s needs must take into consideration the need for development in the language area, the need for support for basic adaptive skills in language development and the extent to which the child’s lack of ability in the language area may have interfered with

academic achievement or development milestones. In the area of language development, a child's need of alternative or augmentative communication modes and the need for language development must be considered fundamental in making their determination of need for services.

(3) The State Department of Education shall report to the Education Committees of the House of Representatives and the Senate by December 1, 1995, and December 1, 1996, on the results of the pilot project described in subsection (2) of this section. Such reports shall include, but not be limited to, the project; the number and ages of the children who applied for participation and who did participate in the pilot project; and evaluation of the benefits obtained by the children who participated in the pilot project; an estimate of the number of children who would likely utilize similar services if provided on a statewide basis; and an estimate of the cost of providing such services on a statewide basis.

(4) The State Board of Education shall promulgate regulations which ensure services are provided to children as such services are defined in this chapter.

**SOURCES:** Codes, 1942, § 6631-02; Laws, 1952, ch. 283, § 2; Laws, 1956, ch. 282; Laws, 1974, ch. 394, § 1; Laws, 1978, ch. 461, § 2; Laws, 1991, ch. 415, § 2; Laws, 1993, ch. 602, § 6; Laws, 1994, ch. 490, § 1; Laws, 1999, ch. 582, § 13; Laws, 2010, ch. 476, § 11, eff from and after passage (approved Apr. 1, 2010.)

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in subsection (2) by changing “the measure functioning level of the child” to “the measured functioning level of the child” in the third sentence, and changing “language development an the extent” to “language development and the extent” in the next-to-last sentence. The Joint Committee ratified these corrections at its July 22, 2010, meeting.

**Amendment Notes** — The 2010 amendment substituted “an intellectual disability” for “mental retardation” in the first sentence in (1).

### **§ 37-23-5. Administration of program of education for exceptional children.**

Except as otherwise provided in Laws, 1999, Chapter 582, the State Department of Education is empowered to foster, inspect, approve and administer a program of education for exceptional children. The State Department of Education shall make the necessary rules and regulations in keeping with the provisions of Sections 37-23-1 through 37-23-9 and applicable federal laws and regulations which are not in conflict with Mississippi law for its proper administration and shall employ such personnel as may be necessary to administer such program.

The department shall require that the program of education for exceptional children be designed to provide individualized appropriate special education and related services that enable a child to reach his or her appropriate and uniquely designed goals for success.

**SOURCES:** Codes, 1942, § 6631-03; Laws, 1952, ch. 283, § 3; Laws, 1956, ch. 284; Laws, 1960, ch. 295, § 4; Laws, 1978, ch. 461, § 3; Laws, 1995, ch. 572, § 2; Laws, 1999, ch. 582, § 14, eff from and after July 1, 1999.

**Joint Legislative Committee Note** — In the second sentence of the section, the reference to “provision of Sections 37-23-1 through 37-23-9” was changed to “provisions of Sections 37-23-1 through 37-23-9” in 2007 at the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation. The correction was ratified by the Joint Committee, pursuant to Section 1-1-109, at the Committee’s August 5, 2008, meeting.

### § 37-23-11. Repealed.

Repealed by Laws of 2010, ch. 353, § 1, effective July 1, 2010.

§ 37-23-11. [Codes, 1930, § 6557; 1942, §§ 6245-07, 6245-07.5; Laws, 1924, ch. 283; Laws, 1930, ch. 278; Laws, 1946, ch. 297, § 7; Laws, 1966, ch. 418, § 1; Laws, 1970, ch. 364, § 1; Laws, 1982, Ex Sess, ch. 17, § 15; Laws, 1986, ch. 434, § 4; Laws, 2006, ch. 550, § 1, eff from and after July 1, 2006.]

**Editor’s Note** — Former § 37-23-11 provided for a due process hearing regarding an exceptional child’s identification, evaluation or educational placement.

### § 37-23-16. Early literacy and numeracy screening assessment instruments; selection; use; funding.

(1)(a) The State Department of Education shall select early literacy and numeracy screening assessment instrument or instruments to be used throughout the state in the screening of students in Kindergarten through Grade 3.

(b) All school districts shall use the literacy and numeracy screening instrument or instruments selected by the department; however, no literacy or numeracy screening instrument or instruments shall be used by school districts for the purpose of determining whether or not a student will be promoted to the next grade level. For the purposes of this section, “literacy” means ability to read and write and “numeracy” means fluency in understanding numbers and mathematical operations.

(2) In addition to those funds that are appropriated by the Legislature, the State Department of Education may receive and expend funds made available to the department from any source, including any federal or other governmental agency, private business, industry, foundation or other organization, to screen students for literacy and numeracy difficulties.

(3) The State Department of Education shall establish a reporting system for school districts in order to monitor the effectiveness of the literacy or numeracy screening assessment instruments. The department shall require school districts to annually submit data requested by the department which may be utilized to determine whether or not the assessment instruments are accurately identifying students in need.



(4) The requirements of this section shall be effective beginning with the 2008-2009 school year and compliance with the mandates of this section shall be subject to appropriation by the Legislature.

**SOURCES:** Laws, 2007, ch. 402, § 2; Laws, 2011, ch. 442, § 17, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment deleted former (4), which read: “The department shall prepare an annual report on the effectiveness of the literacy and numeracy screening assessment instruments and the overall effectiveness of the testing, which report must be submitted to the Chairmen of the Education Committees of the Senate and House of Representatives not later than November 1 of each year”; and redesignated former (5) as (4).

## STATE-SUPPORTED COLLEGE AND UNIVERSITY EDUCATION PROGRAMS FOR SPECIAL CHILDREN

Sec.

37-23-31. Establishment of education program for deaf, aphasic and emotionally disturbed children; rights of parents or guardians regarding placement or education programs.

### **§ 37-23-31. Establishment of education program for deaf, aphasic and emotionally disturbed children; rights of parents or guardians regarding placement or education programs.**

(1) When five (5) or more children under twenty-one (21) years of age who because of deafness, aphasia, emotional disturbance and/or other low-incidence conditions, are unable to have their educational needs met in a regular public school program, and a special education program in their particular areas of exceptionality is not available in their respective local public school districts, a state-supported university or college shall be authorized and empowered, in its discretion, to provide a program of education, instruction and training to such children, provided that such program shall operate under rules, regulations, policies and standards adopted by the State Department of Education as provided for in Section 37-23-33. The opinion of a parent or guardian in regard to the provision of an appropriate special education program in or by their respective local public school district shall be considered before a placement decision is finalized. Parents shall have any and all rights as provided in the Individuals with Disabilities Education Act, including, but not limited to, the right to equal participation in their child’s Individualized Education Program (IEP), the right to require review of their child’s IEP, and the right to appeal an IEP Committee decision immediately. The parent or guardian or local educational agency shall have the right to audio record the proceedings of individualized education program team meetings. The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to audio record a meeting at least twenty-four (24) hours prior to the meeting.

(2) Any state-supported university or college conducting a full-time medical teaching program acceptable to the State Board of Education may, at its discretion, enter into such contracts or agreements with any private school or nonprofit corporation-supported institution, the Mississippi School for the Deaf, or any state-supported institution, providing the special education contemplated by this section for such services, provided the private school or institution offering such services shall have conducted a program of such services at standards acceptable to the State Department of Education for a period of at least one (1) year prior to the date at which the university or college proposes to enter into an agreement or contract for special educational services as described above.

**SOURCES:** Codes, 1942, § 6631-21; Laws, 1966, ch. 430, § 1; Laws, 1978, ch. 461, § 5; Laws, 1995, ch. 574, § 1, eff July 1, 1995; Laws, 2012, ch. 548, § 2, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a statutory reference in (1). The reference to “Section 37-23-93” was changed to read “Section 37-23-33.” The Joint Committee ratified the change at its August 5, 2008, meeting.

**Amendment Notes** — The 2012 amendment added the last two sentences in (1).

## FINANCIAL ASSISTANCE TO EXCEPTIONAL CHILDREN ATTENDING PRIVATE OR PAROCHIAL SCHOOLS

SEC.

37-23-61. “Child” defined.

37-23-63. Eligibility to receive state and federal financial assistance.

### § 37-23-61. “Child” defined.

As used in Sections 37-23-61 through 37-23-75, the word “child” shall mean any child who cannot pursue all regular classwork due to reasons of defective hearing, vision, speech, intellectual disability, or other mental or physical conditions as determined by competent medical authorities and psychologists. Those medical authorities and psychologists shall be approved by the State Department of Education.

**SOURCES:** Codes, 1942, § 6631-54; Laws, 1971, ch. 304, § 4; Laws, 1978, ch. 461, § 7; Laws, 2010, ch. 476, § 12, eff from and after passage (approved Apr. 1, 2010.)

**Amendment Notes** — The 2010 amendment substituted “intellectual disability” for “mental retardation” in the first sentence; and made a minor stylistic change in the last sentence.

**§ 37-23-63. Eligibility to receive state and federal financial assistance.**

Every child who is a resident citizen of the State of Mississippi under twenty-one (21) years of age, who cannot pursue all regular class work due to reasons of defective hearing, vision, speech, intellectual disability or other mental or physical conditions as determined by competent medical authorities and psychologists, who has not finished or graduated from high school, and who is in attendance in a private school, parochial school or speech, hearing and/or language clinic that is accredited by a state or regional accrediting agency or approved/licensed by the State Department of Education, shall be eligible and entitled to receive state financial assistance in the amount set forth in Section 37-23-69. Exceptional children as defined in Section 37-23-3(1) and who are certified by the designated state authority as requiring inpatient care in a private intermediate care facility for the mentally retarded or psychiatric residential treatment facility, with Medicaid reimbursement, shall be eligible and entitled to receive state and federal financial assistance under the provisions of Section 37-23-69, as allowable and available, if an approved private school is operated as an integral part of the facility that provides twenty-four (24) hours a day monitoring, treatment and education.

**SOURCES:** Codes, 1942, § 6631-51; Laws, 1971, ch. 304, § 1; Laws, 1975, ch. 487, § 1; Laws, 1978, ch. 461, § 8; Laws, 1983, ch. 529, § 1; Laws, 1991, ch. 546, § 1; Laws, 1993, ch. 401, § 1; Laws, 1993, ch. 602, § 7; Laws, 2004, ch. 573, § 1; Laws, 2010, ch. 476, § 13; Laws, 2011, ch. 513, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2010 amendment substituted “intellectual disability” for “mental retardation” in the first sentence.

The 2011 amendment inserted “and federal” preceding “financial assistance under the provisions of Section 37-23-69” and “as allowable and available” thereafter in the last sentence.

**DEVELOPMENT CENTER FOR RETARDED AND HANDICAPPED CHILDREN**

Sec.

37-23-91. Authorization for establishment.

**§ 37-23-91. Authorization for establishment.**

The board of education in any Class 1 county of the state having a total population of more than one hundred thousand (100,000) according to the 1960 census and having a total assessed valuation in excess of Sixty Million Dollars (\$60,000,000.00), bordering on the Gulf of Mexico and in which there is a federal military base, under the methods set out in Sections 37-23-91 through 37-23-111, may establish a child development center for children in the county who have an intellectual or physical disability or are otherwise unable to attend public school, including, but not limited to, any child of educable or



trainable mind under twenty-one (21) years of age for whose particular educational needs institutional care and training are not available in such county, or who cannot pursue regular classwork due to reason or reasons of defective hearing, vision, speech, intellectual disability or physical conditions, as determined by competent medical authorities and psychologists who are approved by the State Board of Education. This specifically includes, but shall not be limited to, provision for the deaf and blind of an age under six (6) years, where early training is in accordance with the most advanced and best approved scientific methods of instruction, always taking into consideration the best interests of the child and his improvement at a time during which he is most susceptible to improvement.

**SOURCES:** Codes, 1942, § 6631-31; Laws, 1968, ch. 423, § 1; Laws, 2010, ch. 476, § 14, eff from and after passage (approved Apr. 1, 2010.)

**Amendment Notes** — The 2010 amendment, in the first sentence, substituted “who have an intellectual or physical disability” for “who are mentally or physically retarded” and “intellectual disability” for “mental retardation”; and made minor stylistic changes.

## STANDARDS AND PROCEDURES FOR THE EDUCATION OF EXCEPTIONAL CHILDREN

SEC.

- 37-23-137. Parental consent, involvement, and participation in educational decisions; procedures for evaluations and testing; rights of parents to receive copies of child's educational records.
- 37-23-143. Due process hearing.
- 37-23-150. Legislative intent.

### **§ 37-23-137. Parental consent, involvement, and participation in educational decisions; procedures for evaluations and testing; rights of parents to receive copies of child's educational records.**

(1) Consent shall be obtained:

- (a) Prior to initial evaluation;
- (b) Prior to implementation of the initial individualized educational program for a child with a disability;
- (c) Prior to reevaluation, except that such consent is not required, if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the parent failed to respond; and
- (d) Prior to the release of educational records as required under the Family Educational Rights and Privacy Act and IDEA.

(2) If the parent of a child with a disability refuses consent for the evaluation, the local educational agency may continue to pursue an evaluation by utilizing the due process hearing procedures under IDEA, except to the extent these are not in conflict with Mississippi law relating to parental consent.

(3) Written prior notice shall be provided to the parents of the child whenever a local educational agency proposes to initiate or change or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to that child.

(4) Written prior notice shall be provided in the native language of the parents, unless it clearly is not feasible to do so.

(5) Written prior notice shall include:

(a) A description of the action proposed or refused by the local educational agency;

(b) An explanation of why the local educational agency proposes or refuses to take the action;

(c) A description of any other options that the local educational agency considered and the reasons why those options were rejected;

(d) A description of any other factors that are relevant to the local educational agency's proposal or refusal;

(e) A description of each evaluation procedure, test, record, or report the local educational agency used as a basis for the proposed or refused action;

(f) A description of any factors that are relevant to the local educational agency's proposal or refusal;

(g) A statement that the parents of a child with a disability have protection under the procedural safeguards under IDEA and, if the notice is not an initial referral for evaluation, notification of an individualized educational program meeting or notice for reevaluation, the means by which a copy of a description of procedural safeguards can be obtained; and

(h) Sources for parents to contact to obtain assistance in understanding the provisions under IDEA.

(6) A copy of the procedural safeguards established by the State Department of Education shall be given to the parents upon:

(a) Initial referral for evaluation, reevaluation or parent request for evaluation;

(b) The child's initial IEP meeting;

(c) Registration of a complaint under IDEA to the State Department of Education;

(d) Upon a request by a parent; and

(e) If there is no circumstance giving rise to the purpose of parents receiving a copy of the procedural safeguards under paragraphs (a), (b) and (c) of this subsection, then the parents shall be provided with a copy of the procedural safeguards at least once on an annual basis.

The procedural safeguards shall include provisions which allow parents to be informed of the parental right to record IEP meetings by means of an audio or visual recording device or written transcript at the parent's own expense if they so desire a record of the meeting.

(7) The State Department of Education and each local educational agency shall establish procedures to ensure parents of children with disabilities have the opportunity to participate in meetings with respect to the identification, evaluation, and education placement of the child, and the provision of a free

appropriate public education of such child. Local educational agencies shall provide parents of children with disabilities an opportunity to provide input in the development of the agencies' application for funding, as required under IDEA.

(8) The parent or guardian or local educational agency shall have the right to audio record the proceedings of individualized education program team meetings. The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to audio record a meeting at least twenty-four (24) hours prior to the meeting.

(9) In conducting the evaluation, the local educational agency shall:

(a) Use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;

(b) Not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(10) Each local educational agency shall ensure that:

(a) Tests and other evaluation materials used to assess a child are:

(i) Selected and administered so as not to be discriminatory on a racial or cultural basis; and

(ii) Provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;

(b) Any standardized tests that are given to the child:

(i) Have been validated for the specific purpose for which they are used;

(ii) Are administered by trained and knowledgeable personnel; and

(iii) Are administered in accordance with any instructions provided by the producer of such tests;

(c) The child is assessed in all areas of suspected disability; and

(d) Assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the child are provided.

(11) Upon completion of administration of tests and other evaluation materials:

(a) The determination of whether the child is a child with a disability as defined under IDEA and state regulations established by the State Board of Education shall be made by a team of qualified professionals and the parent of the child and certified by a Screening Team as defined by the State Board of Education;



(b) In making such a determination of eligibility, a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency; and

(c) A copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

(12) Parents shall have an opportunity to obtain an independent educational evaluation of their child in accordance with the requirements under IDEA.

(13) An outside individual or entity contracting with a local educational agency for the purpose of performing an observation in order to make recommendations of possible changes in a child's IEP, or any outside individual or entity making an observation of a child which results in such recommendations, shall submit a report of the observation to the local educational agency. The local educational agency shall notify the parent upon receipt of this report.

(14) Parents and guardians shall have the right of review or to receive copies of all educational records, as such records are defined by the Family Educational Rights and Privacy Act and the Individuals with Disabilities Education Act, pertaining to their child. The local educational agency shall be responsible for making the educational records available to the parent or guardian. The cost of providing a copy of any information contained in a student's educational record to the parents or guardians shall be established by the local school board in accordance with the requirements of the Family Educational Rights and Privacy Act and the Individuals with Disabilities Education Act.

**SOURCES:** Laws, 1999, ch. 582, § 3; Laws, 2001, ch. 554, § 2; Laws, 2011, ch. 492, § 1; Laws, 2012, ch. 548, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2011 amendment rewrote (6).

The 2012 amendment inserted "reevaluation" in (6)(a); added the last paragraph of (6); and added (8) and redesignated the remaining subsections accordingly.

### § 37-23-143. Due process hearing.

(1) When any public agency directly responsible for the education of children with disabilities initiates or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, the parent of a child with a disability or the agency shall have the opportunity to request a state-level impartial due process hearing.

(2) The State Department of Education shall promulgate rules and regulations consistent with the requirements under IDEA to establish a system for the provision of state-level impartial due process hearings. Such provisions shall include:

(a) At least five (5) business days prior to a hearing being conducted, each party shall disclose to all other parties all evaluations completed by

that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(b) A hearing may not be conducted by an employee of the State Department of Education or the local educational agency involved in the education or care of the child.

(c) The right of either party to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.

(d) The right of either party to present evidence and confront and cross-examine witnesses.

(e) The right, at the option of parents, to a written or electronic verbatim record of such hearing.

(f) The right, at the option of parents, to electronic findings of fact and decisions.

(g) Findings and facts shall be made available to the public and transmitted to the advisory panel consistent with the requirements under IDEA.

(3) The decision made by the hearing officer shall be final, except that any party aggrieved by the findings and decision made by the hearing officer shall have the right to bring a civil action with respect to the issues of the due process hearing. Such civil action may be brought in any court of competent jurisdiction within ninety (90) days from the date of the decision of the impartial due process hearing officer.

(4) Except as provided under IDEA, during the pendency of any proceedings conducted pursuant to this section, unless the local educational agency and the parents otherwise agree, the child will remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed. This requirement does not limit the local educational agency from obtaining a temporary restraining order from any court of competent jurisdiction, as deemed necessary by the agency.

**SOURCES:** Laws, 1999, ch. 582, § 6; Laws, 2003, ch. 410, § 1; Laws, 2011, ch. 439, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment substituted “ninety (90)” for “forty-five (45)” in (3).

## § 37-23-150. Legislative intent.

It is the intent of the Legislature that none of the provisions of Sections 37-16-9, 37-23-1 through 37-23-9 and 37-23-133 through 37-23-149 shall create mandates that impose financial or legal requirements upon local school

districts that are greater or more restrictive upon local school districts as required by the Individuals with Disabilities Education Act of 1997 and any later amendments or regulations thereunder, or any other relevant federal legislation. Furthermore, it is not the intent of the Legislature to impose any additional state unfunded mandates for the implementation of this act. Any provisions of this act that are inconsistent, create additional unfunded state mandates, or that are more restrictive upon school districts than federal requirements shall be expressly unenforceable and have no effect.

**SOURCES:** Laws, 1999, ch. 582, § 17; Laws, 2010, ch. 353, § 2, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment, in the first sentence, substituted “37-23-9” for “37-23-11,” and substituted “any later amendments” for “any subsequent amendments”; and made minor grammatical changes.

## BLIND PERSONS’ LITERACY RIGHTS AND EDUCATION

|            |                                                                                                                                                                                                   |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEC.       |                                                                                                                                                                                                   |
| 37-23-193. | Definitions.                                                                                                                                                                                      |
| 37-23-194. | Provision of educational services to blind or visually impaired students by certain specialized professionals.                                                                                    |
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| 37-23-201. | Advisory committee; composition; duties.                                                                                                                                                          |
| 37-23-203. | Certification of teachers in education of blind and visually impaired students; adoption of Braille as core subject for blind and visually impaired students.                                     |
| 37-23-205. | Certified Teacher of the Visually Impaired Scholarship Program established.                                                                                                                       |

### § 37-23-193. Definitions.

For purposes of Sections 37-23-191 through 37-23-203, the following terms shall have the meanings respectively ascribed to them in this section unless the context clearly indicates otherwise:

(a) “Blind student” means an individual who is eligible for special education services or 504 services and who has an impairment in vision that, even with correction, adversely affects the student’s educational performance. This includes a student who:

- (i) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of less than twenty-one (21) degrees;
- (ii) Has a medically indicated expectation of visual deterioration; or



(iii) Is functionally blind due to visual problems affecting reading and writing skills.

(b) “Braille” means the system of reading and writing through touch and includes literary code, designated commonly as the Unified English Braille Code or the Standard English Braille Code, Nemeth Braille Code for Mathematics and Science Notation, Music Braille Code and Computer Braille Code.

(c) “Individualized educational program” (IEP) means a statement developed for a student eligible for special education services under Section 602(a)(20) of Part B of the Individuals with Disabilities Education Act.

(d) “Assistive technology service” means any service or provision of devices which directly assists the functional capabilities of a blind or visually impaired student.

(e) “Compensatory skills” or “alternative techniques” means those skills or techniques needed by blind or visually impaired students to access all areas of the Mississippi Curriculum Frameworks. These skills include, but are not limited to: the use of Braille, large print, optical devices, tactile symbols, calendar systems and abacus; study and organizational skills; listening skills; concept development; the use of assistive technology and recorded materials; social interaction; independent living; recreation and leisure skills; and career education.

(f) “504 Plan” means a legal document under the provisions of the Rehabilitation Act of 1973 which is designed to plan a program of instructional services to assist a student with specialized needs who is in a general education setting.

**SOURCES:** Laws, 1995, ch. 571, § 2; Laws, 2008, ch. 380, § 1; Laws, 2012, ch. 474, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2008 amendment rewrote (a), (b) and (d) and added (e) and (f).

The 2012 amendment substituted (a)(i) through (iii) designations for (a)(1) through (3).

**Federal Aspects** — Rehabilitation Act of 1973 generally, see 29 USCS §§ 701 et seq.

## **§ 37-23-194. Provision of educational services to blind or visually impaired students by certain specialized professionals.**

Contingent upon appropriated funding for teacher scholarships authorized under Chapter 562, Laws of 2012, students who are blind or visually impaired shall receive educational services from the following types of specialized professionals:

(a) Certified Teachers of the Visually Impaired (TVI), who are trained professionals having specialized knowledge and skills in the education of students with visual impairments. These teachers shall provide consultative services and instruction to blind or visually impaired students in the areas

of communication literacy, daily living, social and emotional skills, academic support and career education.

(b) Orientation and Mobility (O&M) Specialists, who are professionals trained and certified in orientation and mobility. O& M Specialists shall provide consultative services and instruction to blind or visually impaired students in tools and techniques used by blind or visually impaired individuals to orient themselves and move independently and safely in their environments.

(c) Teachers of the Visually Impaired (TVI), who are competent in reading and writing Literary Braille and Nemeth Code as certified by successful passage of the Mississippi Praxis II Braille Competency Exam.

**SOURCES:** Laws, 2008, ch. 380, § 2; Laws, 2012, ch. 474, § 2, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment rewrote the first undesignated paragraph and added (c).

**Cross References** — IEP or 504 Plan to be written in consultation with certified teacher of the visually impaired under certain circumstances, see § 37-23-197.

### **§ 37-23-195. Individualized educational program (IEP) or 504 Plan required for each blind or visually impaired student.**

(1) Each appropriate educational entity shall provide for the development of an IEP or 504 Plan for each blind or visually impaired student eligible for educational services or equipment, or both, under Sections 37 23 1 through 37 23 157. In developing the written IEP or 504 Plan for each blind or visually impaired student, there shall be a presumption that proficiency in Braille reading and writing is essential for the student to achieve satisfactory educational progress.

(2) Each appropriate educational entity, in compliance with 20 USCS Section 1414(d)(3)(B)(iii), the Individuals with Disability Education Act, as reauthorized in 2004, shall provide for instruction in Braille and the use of Braille unless the IEP Committee determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the child.

(3) The assessment required for each student shall be conducted by a TVI and shall include, at a minimum, a research based learning media assessment and functional vision assessment, and if necessary in the determination of the IEP Committee, a comprehensive assistive technology evaluation. The assessment shall include a statement of the student's academic and functional strengths, deficits and future needs. If, in the course of developing a student's IEP or 504 Plan or in the review of the research based assessment and consideration of a student's future needs, the majority of the members of the team concur that the student's visual impairment and future needs do not affect reading and writing performance commensurate with ability, then

Braille instruction and its use shall not be required by this section for that student. Nothing in this section shall require the exclusive use of Braille when other specialized educational services and assistive technology devices are determined more appropriate by the IEP Committee for the student's educational needs.

(4) No student shall be denied the opportunity for instruction in Braille reading and writing only because the student has some residual vision.

(5) The parent or guardian or local educational agency shall have the right to audio record the proceedings of individualized education program team meetings. The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to audio record a meeting at least twenty four (24) hours prior to the meeting.

**SOURCES:** Laws, 1995, ch. 571, § 3; Laws, 2008, ch. 380, § 3; Laws, 2012, ch. 474, § 3; Laws, 2012, ch. 548, § 3, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Section 3 of ch. 474, Laws, 2012, effective July 1, 2012, amended this section. Section 3 of ch. 548, Laws, 2012, effective July 1, 2012, also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the August 16, 2012, meeting of the Committee.

**Amendment Notes** — The 2008 amendment rewrote the section to revise certain IEP development requirements and to authorize the development of a 504 Plan for blind or visually impaired students.

The first 2012 amendment (ch. 474), added (2), (4); and rewrote (3).

The second 2012 amendment (ch. 548), added the last paragraph.

**Cross References** — IEP and 504 Plan defined, see § 37-23-193.

IEP or 504 Plan to be written in consultation with certified teacher of the visually impaired under certain circumstances, see § 37-23-197.

## **§ 37-23-197. Eligibility for instruction in Literary and Nemeth Braille reading and writing; determination of need for Braille instruction or use.**

(1) Each blind student, as determined by the IEP Committee, shall be eligible for instruction in Literary and Nemeth Braille reading and writing codes which will sufficiently enable that student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

(2) It shall be the standard procedure for the IEP or 504 Team under Section 37-23-195 that Braille instruction or the use of Braille is required for the student, and the student's IEP or 504 Plan must be written in consultation with a Certified Teacher of the Visually Impaired.

(3) If the IEP or 504 team determines procedures other than the standard for the appropriate reading and writing media of a student are required, its



decision must be based on the current ability and needs as well as the future needs of the student, considering the following:

(a) For a student with some residual vision where the team decides that large print, or large print in combination with Braille, is the appropriate reading and writing media, then that decision must be supported by a statement from a TVI declaring that the appropriate reading and writing media for that student is not Braille; and

(b) The reading and writing media of a student with some residual vision shall be determined after a TVI has administered and reviewed the results of a research-based learning media assessment and reviewed a student's current reading and writing skill level in comparison to levels expected of the student's sighted peers as determined by the IEP Committee.

**SOURCES:** Laws, 1995, ch. 571, § 4; Laws, 2008, ch. 380, § 4; Laws, 2012, ch. 474, § 4, eff from and after July 1, 2012.

**Amendment Notes** — The 2008 amendment rewrote the section to revise IEP or 504 Plan requirements and provide for a determination of need for instruction in or use of Braille.

The 2012 amendment rewrote (1), (2); and added (3).

**Cross References** — Certified teacher of the visually impaired, see § 37-23-194. IEP and 504 Plan defined, see § 37-23-193.

**§ 37-23-199. Textbook publishers that sell textbooks published after December 2008 to furnish certain electronically formatted files compatible with Braille conversion for literary and nonliterary subjects.**

(1) All textbook publishers that sell textbooks published after December 2008 to school districts within the state must furnish the State Department of Education with computer files for literary and nonliterary subjects in the National Instructional Media Access Standard (NIMAS) from which Braille, audio and large print versions of the textbooks can be produced. The publishers also shall furnish the department with NIMAS files, American Standard Code for Information Interchange (ASCII) or other electronically formatted files compatible with Braille conversion for all adopted textbooks and supplementary materials, in both literary and nonliterary subjects, including natural sciences, computer science, mathematics and music, published after December 2008. All books purchased must have appropriate accompanying reproduction files.

(2) The State Board of Education shall promulgate and publish regulations, policies, and procedures for the administrative operation of the Mississippi Instructional Resource Center (MIRC) to further assure that blind and visually impaired students are annually identified and registered in order that all materials and textbooks required by blind and visually impaired students are received and distributed at the same time and in the same manner as textbooks and materials for their sighted peers. The MIRC manual must address, but is not limited to, addressing the following:

(a) The Federal Quota Program, established to promote the educational interests of blind and visually impaired students, which qualifies the state for funds from American Printing House for the Blind;

(b) The on-time delivery of textbooks and materials to blind and visually impaired students, so that the delivery of Braille and large print textbooks and all related supplementary materials will be commensurate with the delivery of regular print textbooks and materials for sighted students as outlined in textbook policies and procedures effective January 1, 2013; and

(c) Communication policies between MIRC, the department and local school districts designating a timeline for book orders, confirmations of orders, status and tracking of orders, delivery dates of orders and the return of books at the end of use by a district.

(3) The board also shall develop and publish policies and procedures for support for district level production of literary and nonliterary Braille textbooks and materials by August 1, 2013, in order to better facilitate the on-time delivery of textbooks to blind and visually impaired students.

**SOURCES:** Laws, 1995, ch. 571, § 5; Laws, 2008, ch. 380, § 5; Laws, 2012, ch. 474, § 5, eff from and after July 1, 2012.

**Amendment Notes** — The 2008 amendment rewrote the section to require textbook publishers to provide computer files from which Braille, audio and large print versions of the textbooks can be produced.

The 2012 amendment rewrote (1) and added (2) and (3).

### **§ 37-23-201. Advisory committee; composition; duties.**

(1) Before December 1, 2008, the State Board of Education shall appoint an ongoing Advisory Committee to expedite the implementation of Sections 37-23-191 through 37-23-203. The Advisory Committee shall be composed of at least twelve (12) persons nominated by the State Superintendent of Public Education from within or outside of the state, including, but not limited to, representatives of the following groups:

- (a) The National Federation of the Blind;
- (b) The Mississippi Council of the Blind;
- (c) A parent or guardian of a blind student;
- (d) The Coalition for Citizens with Disabilities;
- (e) Special education directors having one or more blind or visually impaired students in their respective school districts;
- (f) Specialists in Braille education or deaf-blindness or certified teachers of the blind and visually impaired students, or both. Specialists in Braille shall be deemed competent in reading and writing Literary Braille and Nemeth Code as certified by successful passage of the Mississippi Praxis II Braille Competency Exam and/or certified under National Certification in Literary Braille;
- (g) Employees of the State Department of Education;
- (h) Consumers, or an advocate of consumers, of Braille materials;

- (i) The Mississippi School for the Blind;
- (j) The Mississippi Instructional Resource Center; and
- (k) Individuals from higher education programs that address issues specific to visual impairment.

(2) The State Superintendent of Public Education shall appoint a chairperson from among the members of the Advisory Committee. The committee shall meet at least semiannually upon the call of the superintendent, and its functions shall be to perform the duties prescribed in subsection (3) of this section. Members of the committee shall receive no compensation or per diem, but each member shall be entitled to reimbursement for all actual and necessary expenses incurred by his participation in the committee's activities.

(3) The committee shall perform the following duties:

(a) Provide expertise to maximize collaboration with the National Instructional Materials Access Center (NIMAC) at the American Printing House for the Blind and, when necessary, textbook publishers on the development of NIMAS and associated graphics files to be converted into accessible textbooks with translation software;

(b) Recommend potential authorized users for the NIMAS program to the State Director of Special Education to ensure that all accessible textbook needs are met within the state on a timely basis, being no later than such time that all other students receive their corresponding textbooks;

(c) Study any other issues that the committee determines are relevant and necessary to the implementation of this article and to the improvement of the education of students who are blind or visually impaired in Mississippi; and

(d) Assist the State Department of Education in promulgating regulations, policies and procedures in implementing Sections 37-23-191 through 37-23-203.

(4) The State Superintendent of Public Education shall respond to the recommendations of the Advisory Committee within sixty (60) days of the annually published report.

**SOURCES:** Laws, 1995, ch. 571, § 6; Laws, 2008, ch. 380, § 6; Laws, 2012, ch. 474, § 6, eff from and after July 1, 2012.

**Amendment Notes** — The 2008 amendment rewrote the section to revise the composition and duties of and make ongoing the advisory committee to the State Board of Education.

The 2012 amendment added the last sentence in (1)(f); rewrote the second sentence in (2); and added (4).

**§ 37-23-203. Certification of teachers in education of blind and visually impaired students; adoption of Braille as core subject for blind and visually impaired students.**

(1) As part of the certification process, teachers certified in the education of blind and visually impaired students shall be required to demonstrate



competence in reading and writing Braille after January 1, 2010. The State Department of Education shall adopt procedures to assess such competencies.

(2) The department shall recognize Braille and Orientation Mobility as core subject areas for all blind students, as deemed appropriate by the IEP Committee for all areas of the Expanded Core Curriculum (ECC). The department shall adopt proficiency and competency in reading and writing of Literary Braille and Nemeth Code as a minimal standard for all teachers of the blind certified after January 1, 2010.

(3) Competency in reading and writing Literary Braille and Nemeth Code must be exhibited by an individual passing the Mississippi Praxis II Braille Competency Exam.

(4) The adoption of Braille as a core subject for blind and visually impaired students recognizes that the teaching of Braille is a unique educational need unparalleled by any other subject or skill taught to either general or special education students.

(5) The Expanded Core Curriculum (ECC) is the body of knowledge and skills that are needed by students with visual impairments due to their unique disability-specific needs. Students with visual impairments need the Expanded Core Curriculum in addition to the core academic curriculum of general education. The ECC should be used as a framework for assessing students, planning individual goals and providing instruction. The ECC includes compensatory or functional academic skills, including communication modes, orientation and mobility, social interaction skills, independent living skills, recreation and leisure skills, career education, use of assistive technology, sensory efficiency skills and self-determination.

**SOURCES:** Laws, 1995, ch. 571, § 7; Laws, 2008, ch. 380, § 7; Laws, 2012, ch. 474, § 7, eff from and after July 1, 2012.

**Amendment Notes** — The 2008 amendment substituted “July 1, 2010” for “July 1, 2000” at the end of the first sentence, and deleted “which are consistent with the standards adopted by the National Library Service for the Blind and Physically Handicapped, Library of Congress, Washington, D.C.” from the end of the last sentence.

The 2012 amendment substituted “after January” for “before July” at the end of the first sentence in (1); and added (2) through (5).

### **§ 37-23-205. Certified Teacher of the Visually Impaired Scholarship Program established.**

There is hereby established the Certified Teacher of the Visually Impaired Scholarship Program. The program shall be operated by the Mississippi Instructional Resource Center (MIRC). MIRC shall develop rules and regulations to implement a scholarship program to assist Certified Teachers of the Visually Impaired in taking and passing the Mississippi Praxis II Braille Competency Exam and/or becoming certified under National Certification in Literacy Braille. Funding for this program shall be administered through a special fund at the Mississippi Department of Education and shall be subject to appropriation.

**SOURCES:** Laws, 2012, ch. 562, § 3, eff from and after July 1, 2012.

## CHAPTER 25

### Driver Education and Training

SEC.

37-25-9. Repealed.

37-25-25. Repealed.

### § 37-25-9. Repealed.

Repealed by Laws, 2011, ch. 442, § 20, effective from and after July 1, 2011.

§ 37-25-9. [Codes, 1942, § 6232-75; Laws, 1962, ch. 341, § 5, eff from and after passage (approved May 26, 1962).]

**Editor's Note** — Former § 37-25-9 required school districts to report annually to the superintendent of education the cost of providing and the number of students enrolled in driver education courses during the preceding year.

### § 37-25-25. Repealed.

Repealed by Laws, 2011, ch. 442, § 20, effective from and after July 1, 2011.

§ 37-25-25. [Codes, 1942, § 6232-84; Laws, 1960, ch. 341, § 14; Laws, 1970, ch. 362, § 1, eff from and after July 1, 1970.]

**Editor's Note** — Former § 37-25-25 required an annual report of funds provided for and expended under authority of chapter.

## CHAPTER 26

### State Court Education Fund

SEC.

37-26-11. Children's Advocacy Centers Fund created.

### § 37-26-11. Children's Advocacy Centers Fund created.

There is created in the State Treasury a special fund to be known as the Children's Advocacy Centers Fund, which shall be administered by the Office of the Attorney General. The purpose of the fund shall be for training forensic interviewers in child abuse and child sexual abuse cases, training law enforcement officers and prosecutors about child abuse cases, expanding the number of Children's Advocacy Centers of Mississippi to underserved areas, and other related purposes. Monies in the fund shall be expended by the Attorney General, upon appropriation by the Legislature. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature for the purposes of funding the Children's Advocacy Centers of Mississippi;

- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations; and
- (f) Monies received from such other sources as may be provided by law.

**SOURCES:** Laws, 2012, ch. 554, § 3, eff from and after July 1, 2012.

**Editor's Note** — Laws of 2012, ch. 554, § 6 provides:

“SECTION 6. During fiscal year 2013, the following agencies shall have the authority to receive, budget and expend the following amounts generated from the assessments enacted in House Bill No. 878, 2012 Regular Session:

“University of Mississippi Medical Center for the

“Children's Justice Center .....\$750,000.00

“Board of Trustees of State Institutions of

“Higher Learning for the DuBard School

“for Language Disorders .....\$300,000.00

“Attorney General's office for the Children's Advocacy

“Centers of Mississippi .....\$650,000.00

“Attorney General's office for the Motorcycle

“Officers Training Program .....\$50,000.00

“The above listed escalations shall be done in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.”

## CHAPTER 27

### Agricultural High Schools

SEC.

37-27-19. Repealed.

37-27-79. Report and recommendations for consolidation of agricultural high schools; abolition of agricultural high school pursuant to petition; election.

### § 37-27-19. Repealed.

Repealed by Laws of 2012, ch. 348, § 1, effective from and after July 1, 2012.

§ 37-27-19. [Codes, 1930, § 6680; 1942, § 6460; Laws, 1926, ch. 326; Laws, 1928, ch. 293; Laws, 1930, ch. 278; Laws, 1938, ch. 218.]

**Editor's Note** — Former § 37-27-19 provided standards schools had to achieve in order to be included on the list of approved agricultural high schools by the state board of education.



**§ 37-27-79. Report and recommendations for consolidation of agricultural high schools; abolition of agricultural high school pursuant to petition; election.**

**[Effective until the date Laws of 2012, ch. 551, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

Any agricultural high school in this state (whether maintained by one county or more than one county) may be abolished when twenty per cent of the qualified electors residing in such county or counties shall file a petition with the board of supervisors or boards of supervisors of such county or counties, and request that such school be abolished. Thereupon, the question shall be submitted to an election of the qualified electors of the county or counties within not less than thirty days nor more than sixty days after the next meeting of the board of supervisors or boards of supervisors after the filing of the petition. At such election said electors may vote for abolishing the agricultural high school or against abolishing the agricultural high school. If a majority of the votes cast in such election be in favor of abolishing such school, then such school shall be abolished. If less than a majority of those voting fail to vote for abolishing such school then it shall not be abolished but shall be supported and maintained as now provided by law. When an election is called under this section and the school is not abolished, then another election cannot be held for a period of two years.

**[Effective from and after the date Laws of 2012, ch. 551, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section will read:]**

(1) The State Board of Education shall review and develop a report relating to the need for a separate board of trustees and separate administrative office for the Coahoma Agricultural High School, the Forrest Agricultural High School and the Hinds Agricultural High School and shall submit this finding with recommendations for any necessary legislation to the Chairmen of the Senate and House Education Committees on or before December 1, 2012, for consideration in the 2013 Regular Session. Said report shall include any necessary recommendations for the consolidation and transfer of administrative offices, transfer of real and personal property, and transfer of students from such agricultural high school to the appropriate school district.

(2) Any agricultural high school in this state (whether maintained by one (1) county or more than one (1) county) may be abolished when twenty percent (20%) of the qualified electors residing in such county or counties shall file a petition with the board of supervisors or boards of supervisors of such county or counties, and request that such school be abolished. Thereupon, the question shall be submitted to an election of the qualified electors of the county or counties within not less than thirty (30) days nor more than sixty (60) days after the next meeting of the board of supervisors or boards of supervisors after the filing of the petition. At such election said electors may vote for abolishing

the agricultural high school or against abolishing the agricultural high school. If a majority of the votes cast in such election be in favor of abolishing such school, then such school shall be abolished. If less than a majority of those voting fail to vote for abolishing such school then it shall not be abolished but shall be supported and maintained as now provided by law. When an election is called under this section and the school is not abolished, then another election cannot be held for a period of two (2) years.

**SOURCES:** Codes, 1930, § 6687; 1942, § 6467; Laws, 1930, ch. 81; Laws, 1934, ch. 262; Laws, 2012, ch. 551, § 3, eff \_\_\_\_\_ (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

**Editor's Note** — Laws of 2012, ch. 551, §§ 4 and 5 provide:

“SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

“SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

**Amendment Notes** — The 2012 amendment added (1) and designated the formerly undesignated paragraph as (2) and made a minor stylistic change.

**Cross References** — Consent of school board of school districts involved in implementing the provisions of this section, § 37-7-104 or 37-7-104.1, not required for the administrative consolidation of the school districts pursuant to order of State Board of Education, see § 37-7-103.

## CHAPTER 28

### Charter Schools [Repealed]

#### §§ 37-28-1 through 37-28-21. Repealed.

Repealed by operation of law by former § 37-28-21, effective from and after July 1, 2009.

§ 37-28-1. [Laws, 1997, ch. 584, § 1; reenacted without change, Laws, 2001, ch. 531, § 1; reenacted without change, Laws, 2004, ch. 576, § 1; reenacted without change, Laws, 2005, ch. 508, § 1; reenacted without change, Laws, 2007, ch. 543, § 1, eff from and after July 1, 2007.]

§ 37-28-3. [Laws, 1997, ch. 584, § 2; reenacted without change, Laws, 2001, ch. 531, § 2; reenacted without change, Laws, 2004, ch. 576, § 2; reenacted without change, Laws, 2005, ch. 508, § 2; reenacted without change, Laws, 2007, ch. 543, § 2, eff from and after July 1, 2007.]

§ 37-28-5. [Laws, 1997, ch. 584, § 3, eff from and after passage (approved April 24, 1997); reenacted without change, Laws, 2001, ch. 531, § 3; reenacted without change, Laws, 2004, ch. 576, § 3; reenacted without change, Laws, 2005, ch. 508, § 3; reenacted without change, Laws, 2007, ch. 543, § 3, eff from and after July 1, 2007.]

§ 37-28-7. [Laws, 1997, ch. 584, § 4; reenacted without change, Laws, 2001, ch. 531, § 4; reenacted without change, Laws, 2004, ch. 576, § 4; reenacted without change, Laws, 2005, ch. 508, § 4; reenacted without change, Laws, 2007, ch. 543, § 4, eff from and after July 1, 2007.]

§ 37-28-9. [Laws, 1997, ch. 584, § 5; reenacted without change, Laws, 2001, ch. 531, § 5; reenacted without change, Laws, 2004, ch. 576, § 5; reenacted without change, Laws, 2005, ch. 508, § 5; reenacted without change, Laws, 2007, ch. 543, § 5, eff from and after July 1, 2007.]

§ 37-28-11. [Laws, 1997, ch. 584, § 6; reenacted without change, Laws, 2001, ch. 531, § 6; reenacted without change, Laws, 2004, ch. 576, § 6; reenacted without change, Laws, 2005, ch. 508, § 6; reenacted without change, Laws, 2007, ch. 543, § 6, eff from and after July 1, 2007.]

§ 37-28-13. [Laws, 1997, ch. 584, § 7; reenacted without change, Laws, 2001, ch. 531, § 7; reenacted without change, Laws, 2004, ch. 576, § 7; reenacted without change, Laws, 2005, ch. 508, § 7; reenacted without change, Laws, 2007, ch. 543, § 7, eff from and after July 1, 2007.]

§ 37-28-15. [Laws, 1997, ch. 584, § 8; reenacted without change, Laws, 2001, ch. 531, § 8; reenacted without change, Laws, 2004, ch. 576, § 8; reenacted without change, Laws, 2005, ch. 508, § 8; reenacted without change, Laws, 2007, ch. 543, § 8, eff from and after July 1, 2007.]

§ 37-28-17. [Laws, 1997, ch. 584, § 9; reenacted without change, Laws, 2001, ch. 531, § 9; reenacted without change, Laws, 2004, ch. 576, § 9; reenacted without change, Laws, 2005, ch. 508, § 9; reenacted without change, Laws, 2007, ch. 543, § 9, eff from and after July 1, 2007.]

§ 37-28-19. [Laws, 1997, ch. 584, § 10; reenacted without change, Laws, 2001, ch. 531, § 10; reenacted without change, Laws, 2004, ch. 576, § 10; reenacted without change, Laws, 2005, ch. 508, § 10; reenacted without change, Laws, 2007, ch. 543, § 10, eff from and after July 1, 2007.]

§ 37-28-21. [Laws, 1997, ch. 584, § 11; Laws, 2004, ch. 576, § 11; reenacted and amended, Laws, 2005, ch. 508, § 11; Laws, 2007, ch. 543, § 11, eff from and after July 1, 2007.]

**Editor's Note** — Former § 37-28-1 related to the intent of the Legislature regarding charter schools.

Former § 37-28-3 provided definitions for terms used in the chapter.

Former § 37-28-5 provided petition requirements for local schools requesting charter school status.

Former § 37-28-7 provided rules and regulations for the operation of a charter school.

Former § 37-28-9 provided the terms of the charter.

Former § 37-28-11 related to the disapproval of petitions for charter school status and provided for a hearing to receive additional information.

Former § 37-28-13 related to the duration and renewal of the charter.

Former § 37-28-15 related to funding for charter schools.

Former § 37-28-17 related to employees of charter schools.

Former § 37-28-19 required the State Board of Education report to the Legislature on the status of the charter school program and provided the requisite contents of the report.

Former § 37-28-21 provided for the repeal of §§ 37-28-1 through 37-28-21, effective from and after July 1, 2009.



## CHAPTER 29

## Junior Colleges

|                                                |           |
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## IN GENERAL

## SEC.

- 37-29-1. Creation, establishment, maintenance and operation of community and junior colleges authorized; types of instruction to be offered; early admission program.

**§ 37-29-1. Creation, establishment, maintenance and operation of community and junior colleges authorized; types of instruction to be offered; early admission program.**

(1) The creation, establishment, maintenance and operation of community and junior colleges is authorized. Community and junior colleges may admit students if they have earned one (1) unit less than the number of units required for high school graduation established by State Board of Education policy or have earned a General Education Diploma (GED) in courses correlated to those of senior colleges or professional schools. They shall offer education and training preparatory for occupations such as agriculture, industry, business, homemaking and for other occupations on the semiprofessional and vocational-technical level. They may offer courses and services to students regardless of their previous educational attainment or further academic plans.

(2) The boards of trustees of the community and junior college districts are authorized to establish an early admission program under which applicants having a minimum ACT composite score of twenty-six (26) or the equivalent SAT score may be admitted as full-time college students if the principal or guidance counselor of the student recommends in writing that it is in the best educational interest of the student. Such recommendation shall also state that the student's age will not keep him from being a successful full-time college student. Students admitted in the early admission program shall not be counted for adequate education program funding purposes in the average daily attendance of the school district in which they reside, and transportation required by a student to participate in the early admission program shall be the responsibility of the parents or legal guardians of the student. Grades and college credits earned by students admitted to the early admission program shall be recorded on the college transcript at the community or junior college where the student attends classes, and may be released to another institution or used for college graduation requirements only after the student has successfully completed one (1) full semester of course work.

(3) The community and junior colleges shall provide, through courses or other acceptable educational measures, the general education necessary to individuals and groups which will tend to make them capable of living satisfactory lives consistent with the ideals of a democratic society.

**SOURCES:** Codes, 1942, § 6475-01; Laws, 1950, ch. 369, § 1; Laws, 1987, ch. 320; Laws, 1996, ch. 327, § 1; Laws, 1998, ch. 398, § 1; Laws, 1998, ch. 578, § 1; Laws, 2002, ch. 361, § 1; Laws, 2011, ch. 511, § 3, eff from and after passage (approved Apr. 26, 2011.)

**Amendment Notes** — The 2011 amendment deleted former (2), pertaining to the establishment of the dual enrollment program and the admission requirements, thereto; redesignated former (3) and (4) as (2) and (3); and deleted “meeting all requirements prescribed in subsection (2)(a) through (c) and” preceding “and having a minimum ACT composite” in the first sentence in (2).

### JUNIOR COLLEGE COMMISSION [REPEALED]

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

### JUNIOR COLLEGE DISTRICTS

**§ 37-29-33. Property of existing institutions transferred to and vested in district trustees.**

### ATTORNEY GENERAL OPINIONS

If streets are determined not to be dedicated city streets and are the property of a community college, then the provisions of Section 37-29-67 authorize the board of

trustees to gate the streets for the protection and safety of students, guests, faculty and employees. Smith, Nov. 9, 2005, A.G. Op. 05-0566.

### PRESIDENT AND BOARD OF TRUSTEES

**§ 37-29-67. General powers and duties of trustees.**

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

### ATTORNEY GENERAL OPINIONS

The board of trustees of the Copiah-Lincoln Community College District has authority to adopt a policy governing the handling of records which are confidential under state or federal law. Henley, July 18, 2005, A.G. Op. 05-0351.

If streets are determined not to be dedicated city streets and are the property of a community college, then the provisions of Section 37-29-67 authorize the board of trustees to gate the streets for the protection and safety of students, guests, faculty

and employees. Smith, Nov. 9, 2005, A.G.  
Op. 05-0566.

### § 37-29-69. Junior college attendance centers.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## BORROWING OF MONEY; ISSUANCE OF BONDS

### § 37-29-107. Issuance of bonds for dormitories and other housing facilities.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## AUTHORITY TO ENTER INTO LEASE AGREEMENTS

SEC.

37-29-131. Lease limitation; machinery, equipment, furnishings, and fixtures.

### § 37-29-131. Lease limitation; machinery, equipment, furnishings, and fixtures.

The board of trustees of any community or junior college is hereby authorized and empowered to enter into lease agreements or service contracts with any governmental agency or political subdivision, corporation, partnership, joint venture, or individual under which the college may acquire by lease, lease-purchase or service contract for a primary term not to exceed thirty-five (35) years lands, buildings and related facilities which the board may determine necessary to provide additional facilities, services or educational opportunities to the college, its students, faculty and the community.

Any machinery, furnishings, fixtures and equipment for these facilities and use by the college may be acquired by lease or lease purchase provided that the primary term of such lease shall not exceed the estimated useful economic life of such machinery or equipment.

**SOURCES:** Laws, 1990, ch. 432, § 1; Laws, 2010, ch. 511, § 25, eff from and after passage (approved Apr. 13, 2010.)

**Amendment Notes** — The 2010 amendment substituted “not to exceed thirty-five (35) years lands” for “not to exceed twenty (20) years lands” in the first paragraph.



## TAXATION

**§ 37-29-141. Determination of tax rate; tuition may be fixed in lieu of taxation.**

## ATTORNEY GENERAL OPINIONS

A county may not reduce its levy from one year to the next, except when requested to do so by the board of trustees of the community or junior college district of which it is a member, or in instances in which a county has had a general reassessment or reappraisal of property. A reduction in the millage rate following a general reappraisal may not result in a levy that is less than the minimum levy specified in Section 37-29-141(1). In addition, a reduction in the millage rate in the year following reappraisal must produce an amount of proceeds that is not lower than the amount paid in the previous

year. Stonecypher, Oct. 7, 2005, A.G. Op. 05-0417.

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Section 27-39-329 when said tax is levied expressly “for school district purposes”; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for “school district purposes.” Beech, Mar. 17, 2006, A.G. Op. 06-0009.

## VOCATIONAL AND VOCATIONAL-TECHNICAL EDUCATION

**§ 37-29-167. Applications for benefits; local matching funds; district board of trustees authorized to receive gifts.**

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**§ 37-29-169. Allocation of funds; review of application; certificate of necessity; disposition of application.**

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## STUDENTS

**§ 37-29-232. Criminal history record checks and fingerprinting for health care professional/vocational technical students.**

**Editor’s Note** — In (3), there is a reference to “vulnerable adult.” Laws of 2010, ch. 357, amended the Vulnerable Adults Act, codified as §§ 43-47-1 et seq, to substitute the term “vulnerable persons” for “vulnerable adults” throughout the act.

## MISCELLANEOUS

SEC.

37-29-277. Board of trustees or educational building corporation required to purchase business interruption insurance on certain auxiliary facilities.

**§ 37-29-275. Application of general criminal laws of state; security officers vested with powers of constables; authorization to bear arms if certified; jurisdiction of peace officers employed by public community/junior colleges.**

## ATTORNEY GENERAL OPINIONS

Campus security may use their official vehicles to make routine traffic stops inside the boundaries of the college grounds. Davis, Mar. 4, 2005, A.G. Op. 05-0035.

Community college campus police are subject to rules and regulations of their college's Board of Trustees as well as any rules and regulations of the State Board of Community and Junior Colleges and state statutes relating thereto. Davis, Mar. 4, 2005, A.G. Op. 05-0035.

Regulations of the Board on Law Enforcement Officers Standards and Training as to installation of blue lights on patrol cars are a good guideline for campus police to follow. Davis, Mar. 4, 2005, A.G. Op. 05-0035.

Patrol cars of campus police should be marked so as to clearly identify that the vehicle is being used in an official capacity. Davis, Mar. 4, 2005, A.G. Op. 05-0035.

Both certified and non-certified officers on community/junior colleges grounds are vested with the powers and subjected with the duties of a constable as set forth in

Section 37-29-275; however, only certified officers are permitted to bear arms in carrying out their duties. Lee, Apr. 29, 2005, A.G. Op. 05-0081.

Since campus police officers are vested with the powers of a constable, a campus police department should obtain uniform traffic tickets from the chancery clerk of the county. Via, Oct. 28, 2005, A.G. Op. 05-0522.

Community college police have the powers of a constable pursuant to Miss Code Ann. § 37-29-275 and are authorized to enforce state laws within their jurisdiction, but do not have authority to enforce municipal or campus ordinances on municipal streets that run through the campus. Campus police officers may assist in the enforcement of municipal parking ordinances on municipal streets by notifying municipal authorities when violations occur. A determination of the validity of "campus tickets" may only be made by a court of competent jurisdiction. Graham, March 16, 2007, A.G. Op. #07-00138, 2007 Miss. AG LEXIS 102.

**§ 37-29-277. Board of trustees or educational building corporation required to purchase business interruption insurance on certain auxiliary facilities.**

When the board of trustees of any community or junior college or educational building corporation created under Sections 37-29-601 through 37-29-613 acquires auxiliary facilities by lease, lease-purchase or service contract, or borrows money to purchase the property, the board of trustees or educational building corporation shall obtain business interruption insurance in an amount sufficient to pay lease payments or debt service payments for the period of time required to restore or rebuild leased or financed facilities

damaged or destroyed by a catastrophic event such as a fire, storm, tornado or earthquake.

**SOURCES:** Laws, 2010, ch. 511, § 26, eff from and after passage (approved Apr. 13, 2010.)

#### MISSISSIPPI GULF COAST JUNIOR COLLEGE DISTRICT

### § 37-29-411. General powers and duties of trustees.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

### § 37-29-413. Junior college attendance centers.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

#### COPIAH-LINCOLN JUNIOR COLLEGE DISTRICT

### § 37-29-451. Copiah-Lincoln Junior College District created.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

### § 37-29-459. General powers and duties of trustees.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

#### ATTORNEY GENERAL OPINIONS

|                                                                                                                      |                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| The board of trustees of the Copiah-Lincoln Community College District has authority to adopt a policy governing the | handling of records which are confidential under state or federal law. Henley, July 18, 2005, A.G. Op. 05-0351. |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|

#### MERIDIAN JUNIOR COLLEGE DISTRICT

### § 37-29-507. General powers and duties of trustees.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”



## COAHOMA COMMUNITY COLLEGE DISTRICT

**§ 37-29-559. President and Board of Trustees, powers; authority of State Board for Community and Junior Colleges.**

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## EDUCATIONAL BUILDING CORPORATIONS

SEC.

- 37-29-601. Authorization and procedure for organization of nonprofit educational building corporations.
- 37-29-603. General powers of corporations.
- 37-29-605. Issuance of bonds.
- 37-29-607. Liability on bonds.
- 37-29-609. Bonds as legal investments.
- 37-29-611. Declaration of necessity of formation of educational building corporation; vesting of title to facilities upon retirement of bonds.
- 37-29-613. Powers of educational building corporations as to payment of bonds.

**§ 37-29-601. Authorization and procedure for organization of nonprofit educational building corporations.**

Whenever the State Board for Community and Junior Colleges shall, by a proper resolution, declare the necessity of the formation of nonprofit corporations for the purpose of acquiring or constructing facilities for community and junior colleges under its jurisdiction, any number of natural persons, not less than three (3), who are residents of the State of Mississippi may file with the Secretary of State an application in writing for authority to incorporate a public nonprofit corporation, known as an “educational building corporation.” If it shall be made to appear that each of the persons is a duly qualified resident of this state, then the persons filing such application shall be authorized, subject to the prior approval by the board of the form of the articles of incorporation and bylaws thereof, to proceed to form the corporation as provided by the general law of this state with respect to corporations organized not-for-profit except as provided in Sections 37-29-601 through 37-29-613. The Secretary of State, upon receipt of the application, shall forthwith issue a certificate of incorporation.

**SOURCES:** Laws, 2010, ch. 511, § 18, eff from and after passage (approved Apr. 13, 2010.)

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Cross References** — Board of trustees of state institutions of higher learning authorized to organize nonprofit educational building corporations, see §§ 37-101-61.

**§ 37-29-603. General powers of corporations.**

Each corporation formed under the provisions of Section 37-29-601 shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

- (a) To have succession by its corporate name for the duration of time, which may be in perpetuity, specified in its certificate of incorporation;
- (b) To sue and be sued and to defend suits against it;
- (c) To make use of a corporate seal and to alter it at pleasure;
- (d) To acquire, whether by purchase, construction or gift, facilities for one or more community or junior college and land therefor;
- (e) To equip, maintain, enlarge or improve such facilities;
- (f) To lease under such terms and conditions as its board of directors may deem advisable and as shall not conflict with the provisions of Sections 37-29-601 through 37-29-613 to the State Board for Community and Junior Colleges or to such other entity as may be approved by the board subject to prior approval by the board of each issue of bonds;
- (g) To issue its bonds for the purpose of defraying the cost of acquiring, constructing, maintaining, enlarging, improving or equipping any of such facilities or land in the manner provided in Section 37-29-601;
- (h) To secure the payment of such bonds through the pledge of and lien on such revenues or other sources of income, including lease payments, entering into trust agreements, and the making of such covenants as are provided in Section 37-101-101;
- (i) To refund bonds previously issued;
- (j) To enter into contracts and agreements or do any act necessary for or incidental to the performance of its duties and the execution of its powers under Sections 37-29-601 through 37-29-613;
- (k) To accept gifts from any source whatsoever;
- (l) To appoint and employ such officers and agents, including attorneys, as its business may require; and
- (m) To provide for such insurance as its board of directors may deem advisable.

**SOURCES:** Laws, 2010, ch. 511, § 19, eff from and after passage (approved Apr. 13, 2010.)

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Cross References** — General powers of educational building corporations formed under the provisions of § 37-101-61, see § 37-101-63.

**§ 37-29-605. Issuance of bonds.**

All bonds issued by an educational building corporation may be executed and delivered at any time and from time to time, may be in such form and denominations, may be of such tenor, may be payable in such installments and

at such time or times not exceeding thirty (30) years from their date, may be payable at such place or places, may bear interest at such rate or rates payable at such place or places and evidenced in such manner, and may contain such provisions not inconsistent with Sections 37-29-601 through 37-29-613, all as may be provided by resolution of its board of directors. The bonds issued by any such corporation shall be signed by the chairman of its board of directors or other chief executive officer and attested by its secretary, and the seal of such corporation shall be affixed thereto. Any such bonds may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors to be most advantageous, and the corporation may pay all expenses, premiums and commissions which its board of directors may deem necessary or advantageous in connection with the authorization, sale and issuance of the bonds. All such bonds shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

**SOURCES:** Laws, 2010, ch. 511, § 20, eff from and after passage (approved Apr. 13, 2010.)

**Cross References** — Issuance of bonds by educational building corporations formed under the provisions of § 37-101-61, see § 37-101-65.

### **§ 37-29-607. Liability on bonds.**

(1) All bonds issued by an educational building corporation shall be solely and exclusively obligations of the corporation and shall not create an obligation or debt of the State of Mississippi. The state shall not pledge its full faith or credit for the payment of any debt incurred or bonds issued by such corporation.

(2) All such bonds shall not constitute a debt of the community or junior college for which the facilities are to be constructed.

**SOURCES:** Laws, 2010, ch. 511, § 21, eff from and after passage (approved Apr. 13, 2010.)

**Cross References** — Liability on bonds issued by educational building corporations formed under the provisions of § 37-101-61, see § 37-101-67.

### **§ 37-29-609. Bonds as legal investments.**

All bonds issued by an educational building corporation shall be lawful investments for trusts, insurance companies, savings companies, banks and other financial institutions organized under the laws of this state.

**SOURCES:** Laws, 2010, ch. 511, § 22, eff from and after passage (approved Apr. 13, 2010.)

**Cross References** — Bonds issued by educational building corporations formed under the provisions of § 37-101-61 as legal investments, see § 37-101-69.



**§ 37-29-611. Declaration of necessity of formation of educational building corporation; vesting of title to facilities upon retirement of bonds.**

(1) The State Board for Community and Junior Colleges is hereby authorized and empowered, in its discretion, to pass proper resolutions declaring the necessity of the formation of nonprofit educational building corporations, as set forth in Section 37-29-601.

(2) When the principal of and the interest on any bonds of an educational building corporation payable from the revenues derived from the operation of facilities owned by the corporation shall have been paid in full, then such facilities shall become the property of the community or junior college on whose campus they are located and title to the facilities shall thereupon immediately vest in the community or junior college on whose campus they are located.

**SOURCES:** Laws, 2010, ch. 511, § 23, eff from and after passage (approved Apr. 13, 2010.)

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Cross References** — Vesting of title to facilities upon retirement of bonds issued by educational building corporations formed under the provisions of § 37-101-61, see § 37-101-71.

**§ 37-29-613. Powers of educational building corporations as to payment of bonds.**

The educational building corporations authorized under Sections 37-29-601 through 37-29-613, in connection with the issuance of the bonds in order to secure the payment of such bonds and interest thereon, shall have power by resolutions:

(a) To fix and maintain fees, rentals and other charges to be paid by students, faculty members and others using or being served by facilities for which bonds are issued under Sections 37-29-601 through 37-29-613; however, in fixing such fees, rentals and other charges, there may be allowed reasonable differentials based on the condition, type, location and relative convenience of the facilities in question, but the differentials shall be uniform as to all such students or faculty members and others similarly accommodated;

(b) To provide that bonds issued shall be secured by a first, exclusive and closed lien on, and shall be payable from, all or any part of the income and revenues derived from fees, rentals and other charges to be paid by students, faculty members or others using or being served by any facilities operated at the community or junior college, and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Sections 37-29-601 through 37-29-613, or any other law, or otherwise, and not theretofore so pledged;

(c) To pledge and assign to, or in trust for the benefit of the holder or holders of any bond or bonds, coupon or coupons so issued, an amount of the income and revenues derived from fees, rentals and other charges to be paid by students, faculty members, or others using or being served by any facilities operated at any community or junior college, and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Sections 37-29-601 through 37-29-613, or any other law, or otherwise, and not theretofore so pledged, and the rentals, fees and charges imposed and pledged pursuant to the terms of this section shall be sufficient to pay when due the bonds so issued and interest thereon, to create and maintain a reasonable reserve therefor, and to operate and maintain the project so constructed, and to create and at all times maintain an adequate reserve for contingencies and for major repairs and replacements;

(d) To covenant with or for the benefit of the holder or holders of any bond or bonds, coupon or coupons so issued to erect, repair, remodel, maintain, add to, extend, improve or acquire any facilities, that so long as any of the bonds shall remain outstanding and unpaid, the institution shall fix, maintain and collect, in installments as may be agreed upon, an amount of fees, rentals or other charges from students, faculty members and others using or being served by any facilities operated at any community or junior college and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Sections 37-29-601 through 37-29-613, or any other law, or otherwise, which shall be sufficient to pay when due any bond or bonds, coupons or coupons so issued, and to create and maintain a reasonable reserve therefor, and to pay the cost of operation and maintenance of the facilities against loss or damage by fire and windstorm or other calamities, in such sum as may be acceptable to the purchaser or purchasers of the bonds. The rentals, fees and other charges shall at all times be sufficient to maintain an adequate bond sinking fund to provide for the payment of interest on and principal of the bonds as and when they accrue and mature, to create a reasonable reserve therein and to pay the cost of operation and maintenance and insurance as herein provided and to create and at all times maintain an adequate reserve for contingencies and for major repairs and replacements;

(e) To make and enforce and agree to make and enforce parietal rules that shall insure the use of the facility by all students in attendance at the community or junior college, and faculty members of the community or junior college, to the maximum extent the facilities are capable of serving students and faculty, so long as it does not interfere with any existing contract;

(f) To covenant that as long as any of the bonds so issued shall remain outstanding and unpaid, it will not, except upon such terms and conditions as may be determined by the resolution issuing such bonds:

(i) Voluntarily create, or cause to be created, any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the bonds so issued upon any of the income and

revenues derived from fees, rentals and other charges to be paid by students, faculty members and others using or being served by the facilities operated at any such institution and erected, repaired, remodeled, maintained, added to, extended, improved or acquired under Sections 37-29-601 through 37-29-613, or any other law, or otherwise;

(ii) Convey or otherwise alienate the facilities, or the real estate upon which the same shall be located, except at a price sufficient to pay all the bonds then outstanding payable from the revenues derived therefrom and interest accrued on such bonds, and then only in accordance with any agreements with the holder or holders of such bonds; or

(iii) Mortgage or otherwise voluntarily create, or cause to be created, any encumbrance on the facility, or the real estate upon which it shall be located;

(g) To covenant as to the proceedings by which the terms of any contract with a holder or holders of such bonds may be amended or rescinded, the amount or percentage of bonds the holder or holders of which must consent thereto and the manner in which consent may be given;

(h) To vest in a trustee or trustees the right to receive all or any part of the income and revenue and proceeds of insurance pledged and assigned to, or for the benefit of, the holder or holders of such bonds, and to hold, apply and dispose of the income and revenue and proceeds of insurance and the right to enforce any covenant made to secure or pay or in relation to the bonds;

(i) To execute and deliver, in the name of the community or junior college for which such bonds are being issued, a trust agreement or agreements which may set forth the powers and duties of such trustee or trustees, and limiting the liabilities of the trustee or trustees, and describing what occurrences shall constitute events of default and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage of such bonds may exercise such right and enforce any and all such covenants and resort to any remedies as may be appropriate; and

(j) To vest in a trustee or trustees or the holder or holders of any specified amount or percentage of bonds the right to apply to any court of competent jurisdiction for and have granted the appointment of a receiver or receivers of the income and revenue pledged and assigned to or for the benefit of the holder or holders of such bonds, which receiver or receivers may have and be granted powers and duties as are usually granted under the laws of the State of Mississippi to a receiver or receivers appointed in connection with the foreclosure of a mortgage made by a private corporation.

**SOURCES:** Laws, 2010, ch. 511, § 24, eff from and after passage (approved Apr. 13, 2010.)



# CHAPTER 31

## Vocational Education

|                                                            |          |
|------------------------------------------------------------|----------|
| Vocational and Technical Schools, Classes or Courses ..... | 37-31-61 |
| Regional Education Centers .....                           | 37-31-71 |

### VOCATIONAL AND TECHNICAL SCHOOLS, CLASSES OR COURSES

|           |        |
|-----------|--------|
| SEC.      |        |
| 37-31-65. | Funds. |

#### § 37-31-65. Funds.

The funds derived from any sources for any trade school, such as the Mississippi School for the Deaf, Mississippi School for the Blind, the Oakley Youth Development Center, or Parchman Vocational School or other agencies or institutions receiving funds for the purposes of this chapter, which are not operated in connection with any public school, agricultural high school or community/junior college, or by virtue of any tuition, registration fees, or payment for services rendered or commodities produced, shall be the property of the State Board of Education. In the event any public school, agricultural high school or community/junior college establishes any trade school, classes or courses under Section 37-31-61, such funds shall be the property of such public school, agricultural high school or community/junior college, to be expended by the trustees thereof, and shall be expended solely for the expense of operating and conducting the trade school, classes or courses in connection with such public school, agricultural high school or community/junior college. None of such funds shall be commingled with the funds of any other of such schools, and none of such funds shall be commingled with any of the other funds of any of the public schools, agricultural high schools or community/junior colleges. All of such funds so created shall be and are hereby declared to be public funds, as defined by law.

**SOURCES:** Codes, 1942, § 6242; Laws, 1940, ch. 186; Laws, 1982, ch. 493, § 15; Laws, 1992, ch. 482, § 6; Laws, 2010, ch. 554, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2010 amendment, in the version effective from and after July 1, 2011, substituted “the Oakley Youth Development Center” for “the Oakley Training School” in the first sentence.

### REGIONAL EDUCATION CENTERS

|           |                                                                                              |
|-----------|----------------------------------------------------------------------------------------------|
| SEC.      |                                                                                              |
| 37-31-71. | “Regional education center” defined.                                                         |
| 37-31-73. | Agreements for establishment of center; terms of agreement; board of trustees; fiscal agent. |
| 37-31-75. | Expenditures.                                                                                |

**§ 37-31-71. “Regional education center” defined.**

For the purposes of Sections 37-31-71 through 37-31-79, the term “regional education center” means all facilities utilized for the carrying out of instruction on the level of secondary or postsecondary education or both which are jointly operated by or which accept students on a contractual basis from two (2) or more school districts of this state, or for any school district which encompasses an entire county.

**SOURCES:** Codes, 1942, § 6502-1; Laws, 1972, ch. 337, § 1; Laws, 2011, ch. 480, § 15, eff from and after passage (approved Apr. 6, 2011.)

**Amendment Notes** — The 2011 amendment substituted “regional education center means all facilities utilized for the carrying out of instruction” for “regional vocational education center shall mean all facilities utilized for the carrying out of instruction in vocational or technical education.”

**§ 37-31-73. Agreements for establishment of center; terms of agreement; board of trustees; fiscal agent.**

The various school districts, counties, municipalities and community/junior college districts of this state are authorized to enter into agreements between each other and between the school districts and any of the boards of supervisors of any county, the governing authorities of any municipality, or the boards of trustees of any community/junior college district providing for the construction or operation of regional education centers. Any agreement entered into pursuant to this section shall be subject to the approval of the State Board of Education. The agreement shall designate the fiscal agent, among other provisions, provide for the method of financing the construction and operation of the facilities, the manner in which the facilities are to be controlled, operated and staffed, the basis upon which students are to be admitted to the regional education center and transportation provided for students in attendance at the center. The agreement or any subsequent modification to it shall be spread at large upon the minutes of each party to the agreement after having been duly adopted by the governing authorities of each party.

The agreements may provide for the establishment of regional education advisory councils to serve in an advisory capacity to regional education centers, to be made up of representatives of the board of trustees of school districts or community/junior college districts which may be parties to the agreement. Regional education advisory councils of the parties to the agreement will operate at the will of the fiscal agent for the regional education center. The fiscal agent shall have all powers designated to it in the agreement by the parties to the agreement, except for the power to request or require the levy of taxes or the power to issue or require the issuance of any bonds, notes or other evidences of indebtedness, or to call for an election on the question of the issuance of any bonds, notes or other evidences of indebtedness.

**SOURCES:** Codes, 1942, § 6502-02; Laws, 1972, ch. 337, § 2; Laws, 1982, ch. 493, § 16; Laws, 1992, ch. 482, § 7; Laws, 1996, ch. 534, § 3; Laws, 2011, ch. 480, § 16, eff from and after passage (approved Apr. 6, 2011.)

**Amendment Notes** — The 2011 amendment rewrote the section.

### § 37-31-75. Expenditures.

The various counties, municipalities, school districts and junior college districts which may become parties to any agreement authorized by Sections 37-31-71 through 37-31-79 are authorized to appropriate and expend any and all funds which may be required to carry out the terms of the agreement from any funds available to any party to the agreement not otherwise appropriated without limitation as to the source of the funds, including minimum foundation program funds, sixteenth section funds, funds received from the federal government or other sources by way of grant, donation or otherwise, and funds which may be available to any such party through the Department of Education or any other agency of the state, regardless of the party to the agreement designated by the agreement to be primarily responsible for the construction or operation of the regional education center and regardless of the limitation on the expenditure of any funds imposed by any other statute. However, no funds whose use was originally limited to the construction of capital improvements shall be utilized for the purpose of defraying the administrative or operating costs of any regional education center. Any one or more of the parties to an agreement may be designated as the fiscal agent or contracting party in carrying out any of the purposes of the agreement, and any and all funds authorized to be spent by any of the parties may be paid over to the fiscal agent or contracting party for disbursement by the fiscal agent or contracting party. Disbursements shall be made and contracted for under the laws and regulations applicable to the fiscal or disbursing agent, except to the extent they may be extended or modified by the provisions of Sections 37-31-71 through 37-31-79. All of the parties to the agreement may issue bonds, negotiable notes or other evidences of indebtedness for the purpose of providing funds for the acquisition of land and for the construction of buildings and permanent improvements under the terms of the agreement under any existing laws authorizing the issuance or sale of bonds, negotiable notes or other evidences of indebtedness to provide funds for any capital improvement.

**SOURCES:** Codes, 1942, § 6502-04; Laws, 1972, ch. 337, § 4; Laws, 2011, ch. 480, § 17, eff from and after passage (approved Apr. 6, 2011.)

**Amendment Notes** — The 2011 amendment rewrote the section.



FUNDS FOR MISSISSIPPI BOARD OF VOCATIONAL AND TECHNICAL  
EDUCATION

§ 37-31-205. Authority of board.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi , shall mean the ‘Mississippi Community College Board.”

CHAPTER 33

Civilian Vocational Rehabilitation

State Department of Rehabilitation Services ..... 37-33-151

VOCATIONAL REHABILITATION LAW

§ 37-33-17. Acceptance and disposition of gifts and donations;  
annual report.

**Editor’s Note** — Laws of 2010, ch. 558, § 6, provides:  
“SECTION 6. Sections 1, 2 and 3, Chapter 564, Laws of 2007, which authorize the Mississippi Development Authority to lease the Old School for the Blind property, are hereby repealed.”

STATE DEPARTMENT OF REHABILITATION SERVICES

SEC.  
37-33-157. General powers and duties of Department of Rehabilitation Services.  
37-33-173. Providers of interpreting services for a fee to deaf and hearing impaired required to register with Office on Deaf and Hard of Hearing; standards for registration; appointment of advisory council for development of program rules; confidentiality; penalties.

§ 37-33-157. General powers and duties of Department of  
Rehabilitation Services.

The Department of Rehabilitation Services shall provide the rehabilitation services authorized by law and by the rules, regulations and policies of the board to every individual determined to be eligible therefor, and in carrying out the purposes of this chapter the department is authorized, when consistent with the rules, regulations and policies of the State Board of Rehabilitation Services:

- (a) To expend funds received either by appropriation or directly from federal or private sources.
- (b) To cooperate with other departments, agencies and institutions, both public and private, in providing the services authorized by this chapter to disabled individuals, in studying the problems involved therein, and in establishing, developing and providing in conformity with the purposes of

this chapter, such programs, facilities and services as may be necessary or desirable.

(c) To enter into reciprocal agreements with other states to provide for the services authorized by this chapter to residents of the states concerned.

(d) To conduct research and compile statistics relating to the provision of services to or the need of services by disabled individuals.

(e) To enter into contractual arrangements with the federal government and with other authorized public agencies or persons for performance of services related to rehabilitation.

(f) To contract with schools, hospitals and other agencies, and with doctors, optometrists, nurses, technicians and other persons, for training, physical restoration, transportation and other rehabilitation services.

(g) To take such action as may be necessary to enable the department to apply for, accept and receive for the state and its residents the full benefits available under the federal Vocational Rehabilitation Act, and any amendments thereto, and under any other federal legislation or program having as its purpose the providing of, improvement or extension of, vocational rehabilitation services.

(h) To establish an Office on the Deaf and Hard of Hearing to provide services and activities authorized under Section 37-33-171.

(i) To own in the name of the State of Mississippi certain real property described in Section 7 of Chapter 512, Laws of 2005, and to construct, renovate or repair under the supervision of the Department of Finance and Administration any buildings on such property.

(j) To borrow money from the Mississippi Development Bank or other financial institution for the purpose of construction, repair and renovation, furnishing or equipping facilities owned or under the supervision of the department; however, the department shall certify the following to the Mississippi Development Bank or other financial institution prior to entering into any loan:

(i) The available revenue that the department intends to utilize to repay the loan; and

(ii) That the department does not intend to request an additional appropriation from state source funding to pay debt service on any loan entered into under this paragraph.

(k) To fingerprint and perform a current criminal history record check, child abuse registry check, sex offender registry check, and vulnerable adult abuse or neglect check on any person performing services for or on behalf of the department including, but not limited to, every employee, volunteer, contractual worker, and independent contractor.

(l) To use the results of the fingerprinting and background checks performed under paragraph (k) for the purposes of employment decisions and/or actions and service provision to consumers of the department's services. The department and its agents, officers, employees, attorneys and representatives shall be exempt from liability for any findings, recommendations or actions taken under this paragraph.

**SOURCES:** Laws, 1983, ch. 521, § 5; Laws, 1989, ch. 544, § 88; Laws, 1990, ch. 522, § 14; Laws, 1991, ch. 608, § 20; Laws, 2005, ch. 512, § 6; Laws, 2010, ch. 473, § 1; Laws, 2011, ch. 308, § 1, eff from and after July 1, 2011.

**Joint Legislative Committee Note** — Subsection (i) of this section contained an incorrect reference to “Section 6 of Chapter 512, Laws of 2005.” In 2007, the reference was changed to “Section 7 of Chapter 512, Laws of 2005” at the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation. The correction was ratified by the Joint Committee, pursuant to Section 1-1-109, at the Committee’s August 5, 2008, meeting.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in a statutory reference in paragraph (l) by substituting “background checks performed under paragraph (k)” for “background checks performed under paragraph (j).” The Joint Committee ratified the correction at its July 13, 2011, meeting.

**Amendment Notes** — The 2010 amendment added (j) and (k).

The 2011 amendment added (j) and redesignated former (j) and (k) as (k) and (l); and made minor stylistic changes.

**§ 37-33-173. Providers of interpreting services for a fee to deaf and hearing impaired required to register with Office on Deaf and Hard of Hearing; standards for registration; appointment of advisory council for development of program rules; confidentiality; penalties.**

(1) As used in this section:

(a) “Certification” means the credentials that has been granted or recognized, or both, by the National Association of the Deaf (NAD), the Registry of Interpreters for the Deaf (RID), or any other national certifying body that is recognized by the Mississippi Office on Deaf and Hard of Hearing (ODHH), including, but not limited to: RID/NAD National Interpreter Certification (NIC) (NIC, NIC Advanced, NIC Master), NAD (III, IV or V), Comprehensive Skills Certificate (CSC), Certificate of Interpretation (CI), Certificate of Transliteration (CT), Ed:K-12 (Educational Interpreter Performance Appraisal [EIPA] Level 4 or 5), Certified Deaf Interpreter (CDI). It further includes the documentation that supports the certification level the interpreter has achieved.

(b) “Deaf or hard of hearing person” means a person who has either no hearing or who has significant hearing loss so as to need the services of an interpreter to communicate. “Deafblind person” means a person who has either the dual loss of hearing and sight or who has significant hearing and vision losses so as to need the services of an interpreter to communicate.

(c) “Interpreter training program” means a postsecondary degree program of at least two (2) years in duration that is accredited by the Mississippi State Board for Community and Junior Colleges, the Mississippi institutions of higher learning or a comparable agency in another state.

(d) “Interpreter” means an individual who is certified or credentialed by the National Association of the Deaf, the Registry of Interpreters for the Deaf, any other national certifying organization which is recognized by the



Mississippi Office on Deaf and Hard of Hearing (ODHH), or an individual who holds a valid ODHH-approved quality assurance screening level. Registered interpreters are required to adhere to professional standards and a Code of Ethics as established by the National Association of the Deaf and the Registry of Interpreters for the Deaf.

(e) "Interpreting" is the process of providing accessible communication between and among consumers who are deaf or hard of hearing and those who are hearing. This process includes, but is not limited to, communication between persons who use American Sign Language, English, cued speech and oral communication. It may also include various other modalities that involve visual, gestural and tactile methods.

(f) "Quality assurance level (QA level)" means the level granted through an ODHH-approved quality assurance screening evaluation. It further includes the documentation that supports the QA level the interpreter has achieved.

(g) "Register" means the process whereby the certification and quality assurance level of qualified interpreters are documented and maintained so as to permit those individuals to act as an interpreter for pay in the State of Mississippi.

(h) "Registering authority" means the agency that registers the credentials an interpreter holds, issues the registration documentation to do business in the State of Mississippi, and maintains the records to support the registration. The registering authority is the Mississippi Department of Rehabilitation Services, Office on Deaf and Hard of Hearing.

(i) "EIPA" means the Educational Interpreter Performance Assessment.

(2)(a) Commencing on July 1, 2005, no person, except as noted in subsection (2) (f), shall do any of the following with respect to providing interpreting services for consumers who are deaf or hard of hearing for a fee or other remuneration unless the person is registered with the registering authority:

(i) Engage in the practice of, or offer to engage in the practice of, interpreting for a fee.

(ii) Use the title of interpreter in connection with the person's name.

(iii) Assume the identity of an interpreter.

(iv) Use the title of interpreter in advertisements or descriptions.

(v) Perform the function of or convey the impression that the person is an interpreter.

(b) On or after July 1, 2010, no person shall provide interpreting services and/or represent himself or herself as an interpreter for deaf or hard of hearing consumers for compensation unless such person is registered with the registering authority according to the provisions of this section. To register as an interpreter, one must satisfy one (1) of the following requirements: (i) hold certification recognized by the National Association of the Deaf or the Registry of Interpreters for the Deaf, (ii) hold a quality assurance screening level that is accepted by the Registering Authority, or (iii) score 3.0 or higher on the EIPA.

(c) In situations where there is extreme hardship or where deaf and hard of hearing consumers would be left with no interpreting services, a provisional permit may be granted on an annual basis, provided that documentation of improved interpreting skills is shown.

(d) The registering authority shall be charged with the responsibility for keeping all records and verifying the accuracy of the credentials of each applicant.

(e) Registration shall be for a period of two (2) years, and is renewable.

(f) The following shall be exceptions to subsection (2)(a)(b)(c):

(i) A person may engage in the practice of interpreting for religious services without being registered under the provisions of this section.

(ii) Students enrolled in an approved Interpreter Training Program (ITP) are granted a student level registration provided the ITP has an instructor who also is registered under the provisions of this section and the student pays the appropriate fees.

(iii) A graduate of an approved Interpreter Training Program (ITP) can continue to utilize their student level for two (2) years without registering provided they are supervised by an interpreter who is registered under the provisions of this section and the graduate pays the appropriate fees.

(g) The registering authority shall establish an Advisory Council to assist in writing the rules and setting the fees for registering. The Advisory Council shall have three (3) members. One (1) member shall be a deaf consumer; one (1) member shall be a registered interpreter who is actively engaged in the interpreting business; and one (1) member shall be at large. The Advisory Council may ask additional persons who are knowledgeable about the process and business of interpreting to assist them with the business of the council as needed.

(3) The deaf, hard of hearing, or deafblind consumer(s) and the hearing person(s) who employ, contract or otherwise engage the services of an interpreter are the principal parties in the interpreted communication or conversation, and as such hold exclusive rights to any information conveyed therein. Interpreters may not disclose or be compelled to disclose, through reporting or testimony or by subpoena, the contents of the conversations, except an interpreter working in conjunction with and paid by a state agency, private organization or primary or secondary school for the therapeutic, educational or rehabilitation purposes. This communication remains confidential, but may be shared with the appropriate agency or educational staff working to assist the deaf, hard of hearing or deafblind person.

(4) The registering authority shall develop forms and assist in referring grievances to the appropriate professional organization and/or authorities.

(5) The registering authority shall have oversight authority regarding in-state quality assurance evaluations to ensure that proper assessment tools, methods and procedures are followed and that evaluators are trained and qualified, as well as the authority to employ personnel as necessary to carry out the provisions of this section.

(6) Whoever is in violation of subsection (2) or (3) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00), and may be imprisoned for not more than six (6) months.

(7) Mississippi shall recognize interpreters who are licensed and/or certified in other states with equal or higher certification than the interpreting levels prescribed by the rules and regulations incumbent in this section. A nonresident interpreter may work up to fifteen (15) days per year without seeking a valid permit from the registering authority. The person who utilizes a nonresident interpreter is charged with the responsibility of verifying the credentials and type of interpreting the interpreter is qualified to do. If a nonresident interpreter works more than fifteen (15) calendar days per year in the State of Mississippi for compensation or other remuneration, the interpreter must become registered under the provisions of this section and pay the appropriate fees.

(8) The registering authority shall establish fair and equitable rules and a fee schedule, not to exceed One Hundred Dollars (\$100.00) per annual registration, to cover the cost of administering this section. The rules and fee schedule will be published for the general public.

**SOURCES:** Laws, 2005, ch. 402, § 1; Laws, 2010, ch. 479, § 1, eff from and after July 1, 2010.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Amendment Notes** — The 2010 amendment rewrote the section.

## CHAPTER 35

### Adult Education

SEC.

37-35-3. Establishment and maintenance of adult education classes; levy of ad valorem tax; GED Option programs.

#### § 37-35-1. State Board for Community and Junior Colleges to develop program of adult education.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

#### § 37-35-3. Establishment and maintenance of adult education classes; levy of ad valorem tax; GED Option programs.

(1) The board of trustees of any school district, including any community/junior college, may establish and maintain classes for adults, including general educational development classes, under the regulations authorized in this



chapter and pursuant to the standards prescribed in subsection (3). The property and facilities of the public school districts may be used for this purpose where such use does not conflict with uses already established.

(2) The trustees of any school district desiring to establish such program may request the taxing authority of the district to levy additional ad valorem taxes for the support of this program. The board of supervisors, in the case of a county school district, a special municipal separate school district, or a community/junior college district, and the governing authority of any municipality, in the case of a municipal separate school district, is authorized, in its discretion, to levy a tax not exceeding one (1) mill upon all the taxable property of the district for the support of this program. The tax shall be in addition to all other taxes authorized by law to be levied. In addition to the funds realized from any such levy, the board of trustees of any school district is authorized to use any surplus funds that it may have or that may be made available to it from local sources to supplement this program.

(3)(a) Any student participating in an approved General Educational Development (GED) Option program administered by a local school district or a local school district with an approved contractual agreement with a community college or other local entity shall not be considered a dropout. Students in such a program administered by a local school district shall be considered as enrolled within the school district of origin for the purpose of enrollment for minimum program funding only. Such students shall not be considered as enrolled in the regular school program for academic or programmatic purposes.

(b) Students participating in an approved General Educational Development (GED) Option program shall have an individual career plan developed at the time of placement to insure that the student's academic and job skill needs will be met. The Individual Career Plan will address, but is not limited to, the following:

- (i) Academic/instructional needs of the student;
- (ii) Job readiness needs of the student; and
- (iii) Work experience program options available for the student.

(c) Students participating in an approved General Educational Development (GED) Option program may participate in existing job and skills development programs or in similar programs developed in conjunction with the GED Option program and the vocational director.

(d) General Educational Development (GED) Option programs may be operated by local school districts or may be operated by two (2) or more adjacent school districts, pursuant to a contract approved by the State Board of Education. When two (2) or more school districts contract to operate a General Educational Development (GED) Option program, the school board of a district designated to be the lead district shall serve as the governing board of the General Educational Development (GED) Option program. Transportation for students placed in the General Educational Development (GED) Option program shall be the responsibility of the school district of origin. The expense of establishing, maintaining and operating such GED

programs may be paid from funds made available to the school district through contributions, minimum program funds or from local district maintenance funds.

(e) The State Department of Education will develop procedures and criteria for placement of a student in the General Educational Development (GED) Option programs. Students placed in General Educational Development (GED) Option programs shall have parental approval for such placement and must meet the following criteria:

(i) The student must be at least sixteen (16) years of age;

(ii) The student must be at least one (1) full grade level behind his or her ninth grade cohort or must have acquired less than four (4) Carnegie units;

(iii) The student must have taken every opportunity to continue to participate in coursework leading to a diploma; and

(iv) The student must be certified to be eligible to participate in the GED course by the school district superintendent, based on the developed criteria.

(f) Students participating in an approved General Educational Development (GED) Option program, who are enrolled in subject area courses through January 31 in a school with a traditional class schedule or who are enrolled in subject area courses through October 31 or through March 31 in a school on a block schedule, shall be required to take the end-of-course subject area tests for those courses in which they are enrolled.

**SOURCES:** Codes, 1942, § 6240; Laws, 1940, ch. 177; Laws, 1960, ch. 293; Laws, 1997, ch. 604, § 2; Laws, 2010, ch. 362, § 1; Laws, 2011, ch. 423, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2010 amendment, in (3)(f)(ii), substituted “at least one (1) full grade level behind” for “at least two (2) grade levels behind,” and inserted “his or her ninth grade cohort” and “must have”; and rewrote (g).

The 2011 amendment rewrote (3)(a); deleted former (3)(e), which read: “Students participating in an approved General Educational Development (GED) program within a community college shall be included in the average daily attendance of the school district of origin. The school district of origin is authorized to contract with the community college to provide GED services for the student”; redesignated (3)(f) and (g) as (3)(e) and (f); and inserted “Option” following “(GED)” throughout.

### § 37-35-5. Acceptance of federal funds.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

### § 37-35-7. Utilization of state appropriations.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**§ 37-35-9. General educational development preparatory classes and GED testing program; administration and supervision.**

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**ATTORNEY GENERAL OPINIONS**

If acts of a student, although not rising to the level of a felony, are such that the student poses a threat to the safety of himself or others or will disrupt the educational process at the Alternative School, then the School Board may remove the student from the school system altogether.

If a compulsory-school-age child is expelled from the Alternative School for criminal or violent behavior, the school district must refer the case to the youth court if probable cause exists. Maples, February 2, 2007, A.G. Op. #07-00025, 2007 Miss. AG LEXIS 1.

**§ 37-35-11. General educational development preparatory classes; policies and procedures; funding; annual report.**

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**§ 37-35-13. Criminal penalties for violations of General Educational Development Test (GED) security procedures.**

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”



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